

18.
05-06-2023
debajyoti
(Ct. no.06)

RVW 73 of 2023
+
IA NO:CAN/1/2023
in
MAT/257/2023
+
IA NO:CAN/1/2023

Indranil Bhattacharjee
Vs.
Subhasis Rakshit & Ors.

Mr. Satyam Mukherjee,
Ms. Sayani Ahmed,
Mr. Soumyadeep Mukherjee
... For the Applicant.

Mr. Sandipan Banerjee,
Mr. Sobhan Majumder
... For H.M.C.

A copy of the review application be made available to Mr. Sandipan Banerjee, learned advocate, appearing for Howrah Municipal Corporation, in course of the day, by learned advocate for the applicant.

This review application has been taken out by the private respondent in the appeal for review of the judgment and order dated March 20, 2023, whereby MAT 257 of 2023 was disposed of along with the connected application.

The operative portion of the order under review reads as follows:-

“ Accordingly, we grant liberty to the appellant/writ petitioner to make a fresh representation to the Assistant Engineer, Borough-VI, Howrah Municipal Corporation, within a week from date, with a copy to the private respondent.

If such a representation is made, the Assistant Engineer, Borough-VI, Howrah Municipal Corporation, shall dispose of the same in accordance with law and the applicable rules and regulations, within eight weeks from the date of receipt of the representation, after giving an opportunity of hearing to all concerned parties including the appellant/writ petitioner and the private respondent herein or their authorized representatives. The parties shall be at liberty to produce all relevant documents before the Assistant Engineer, Borough-VI, Howrah Municipal Corporation. The decision arrived at by the Assistant Engineer, Borough-VI, Howrah Municipal Corporation, shall be communicated to the parties within a week from the date of the decision. In case the Assistant Engineer, Borough-VI, Howrah Municipal Corporation, comes to a conclusion that the impugned construction is unauthorized, no effect shall be given thereto for a week from the date of communication of such order to the parties. If within such period, the private respondent is unable to obtain any protective order from a competent forum, the Corporation will be at liberty to take steps in accordance with law.

We clarify once again that we have not gone into the merits of the case. The Assistant Engineer, Borough-VI, Howrah Municipal Corporation, shall decide the representation to be made by the appellant in accordance with law. ”

Learned advocate for the review applicant says that his client's apprehension is that a report that was filed in Court on behalf of the Corporation on March 20, 2023, copy whereof is at page 84 of the review application, may stand in the way of the applicant getting justice from the Competent Authority in the Corporation. This is because such report is to the effect that there is no sanctioned plan in respect of the alleged unauthorized construction raised by the applicant.

Learned advocate for the applicant says that subsequent to the disposal of the appeal, an application was made under the Right to Information Act and the reply thereto, which is at page 90 onwards of the review application, will show that there, in fact, is a sanctioned plan in respect of the construction in question.

We find no ground for reviewing our judgment and order. There is no error apparent on the face of the judgment and order or any other sufficient cause which may persuade us to review the same.

However, we clarify that the reply received by the applicant from the Corporation in response to the application under the RTI Act will be duly considered by the Assistant Engineer, Borough-VI, while complying with the order dated March 20, 2023, which is under review. Needless to say, whatever has been stated in the aforesaid report of the Corporation, the Assistant Engineer will look into the matter with an open mind and act in accordance with law taking into account all documents that are in the records of the Corporation.

The review application and the connected application are, accordingly, disposed of.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of all necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)