

02.05.2023
Item No.2.
Court No.6.
AB

**M.A.T. 723 of 2023
With
I A CAN 1 of 2023**

**Tapan Kumar Jana
Vs
The State of West Bengal & Others**

Mr. Dilip Kumar Sinha ...for the Appellant.

Mr. Malay Singh,
Mr. Bibekananda Tripathyfor the State.

By consent of the parties, the appeal and the application are taken up for hearing together.

An order passed on the appellant's writ petition, interim in nature, in the sense that the writ petition is still pending before the learned Single Judge, is under challenge in this appeal.

The appellant has approached the learned Single Judge complaining that the Headmaster of Moyna Adarsa Sikshyatan under Bakcha Gram Panchayet in Purba Medinipur has raised a boundary wall adjacent to the writ petitioner's premises, without any permission from the Gram Panchayet.

By the order impugned, the learned Judge has directed learned Advocate for the State respondents to obtain necessary instructions from the Block Development Officer, Moyna Block, with regard to the writ petitioner's complaint. Being aggrieved, the writ petitioner is before us.

We have our serious doubts as to whether this appeal is maintainable at all. By the order impugned, the learned Judge has decided nothing. The writ petition is yet to be decided. The order, in our opinion, is not a judgment within the meaning of Clause 15 of the Letters Patent, nor is appealable under 0.43 r.(1) of the Code of Civil Procedure.

Keeping aside the question of maintainability, even otherwise, we see no legitimate reason for the appellant to feel aggrieved by the impugned order.

The appellant says that the Block Development Officer is not the Appropriate Authority to give instructions. Whoever the Appropriate Authority may be, the appellant may make appropriate submission in that regard before the learned Single Judge. We find absolutely no reason to interfere with the order under appeal.

Since we have not called for affidavits, the allegations in the application are deemed not to be admitted by the respondents.

MAT No.723 of 2023 is dismissed along with IA CAN 1 of 2023.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)

