

26.06.2023
Item No.13
Court No.6.
S. De

M.A.T. 803 of 2023
With
I.A. No. CAN/1/2023

Gopal Biswas & Ors.
Vs
Nitai Biswas & Ors.

Mr. Shahriyar Karim Akhan,
...for the appellants.

Mr. Partha Sarathi Bhattacharyya, Ld. Sr. Adv.,
Mr. Raju Bhattacharyya,
...for the respondent nos. 1 to 4.

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

A judgment and order dated January 3, 2023, whereby a learned Single Judge of this Court disposed of the writ petition of the private respondents in this appeal being WPA No.9943 of 2022, is the subject matter of challenge in this appeal.

It appears that the private respondents in this appeal approached the learned Single Judge complaining that the appellants herein had made unauthorized construction without obtaining due sanction from the concerned Gram Panchayat. The learned Judge disposed of the writ petition by directing the concerned Gram Panchayat to consider and dispose of the representation made by the writ

petitioner no.1, in accordance with law. The learned Judge laid down the procedure to be followed by the Gram Panchayat in disposing of the representation.

Being aggrieved, the private respondents in the writ petition have come up by way of this appeal.

At the very outset, Mr. Bhattacharyya, learned Senior Advocate representing the respondents/writ petitioners, handed up to us a copy of an order dated May 26, 2023. It appears from the said order that the appellants herein have been directed to demolish certain illegal constructions. This order has been passed pursuant to the order of the learned Single Judge which is assailed before us. In other words, the order of the learned Single Judge has been implemented and given effect to. The demolition order may furnish a fresh cause of action to the appellants herein. The appellants will naturally be at liberty to challenge the demolition order dated May 26, 2023, in accordance with law, before the appropriate forum.

We make it clear that we have not entered into the merits of the disputes between the parties. If the appellants challenge the demolition order before the appropriate forum, the same shall be decided in accordance with law without being influenced by any observation in this order.

Accordingly, MAT 803 of 2023 is disposed of along with the application being I.A. No. CAN 1 of 2023.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)