

D/L
Item No. 07
02.08.2023
KOLE

MAT 846 of 2023
With
IA No. CAN 1 of 2023
Monirul Khan & Anr.
-Vs.-
The State of West Bengal & Ors.

Mr. Sanjib Kumar Mal,
Mr. Soumen Bhattacharjee,
Mr. Ankan Das,

...for the appellants.

Mr. Rajarshi Basu,
Mr. K. M. Hossain,

...for the State.

Mr. Kushal Chatterjee,
Mr. T. Khan,
Mr. D. Choudhury,
Mr. S. Mitra,

...for the respondent nos. 9 to 14.

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

Affidavit of service filed in court today be kept with the records. Only the State and the private respondents are represented. In spite of notice, the concerned Panchayat Samity is not represented. However, in view of the nature of the order that we propose to pass, we do not deem it necessary to defer hearing of the appeal and the application.

A judgment and order dated May 2, 2023, whereby the writ petition of the appellants being WPA 9425 of 2023 was disposed of, is under challenge in this appeal.

The appellants had approached the learned Single Judge with the grievance that the private respondents had made construction on plot nos. 2451, 2479, 2494 and 2495 of

Mouza-Keshabpur, without obtaining sanctioned building plan. The other issue raised was that construction had been made by the private respondents on plot no 2496 which is classified as 'pukur'.

The learned Judge, after hearing learned Advocates for the writ petitioners, the State, Howrah Zilla Parishad and the private respondents, disposed of the writ petition with the following directions:-

“The petitioner is at liberty to approach the appropriate permission granting authority seeking information as to whether any construction had been permitted on Plot No. 2496 to any person or not. Upon the reply that shall be given by the authority, the petitioner will be at liberty to take appropriate steps.

The subsequent contention of the petitioner, from the bar, that the plan was procured after the construction has been made, is outside the scope of the writ petition and the petitioner is at liberty to approach the appropriate forum for appropriate remedy.”

Being aggrieved, the writ petitioners have come up by way of this appeal.

We have heard learned Counsel for the parties at some length. We are of the view that the grievance of the writ petitioners may be redressed by the concerned officers in the administration.

We find from the records that representations have been made by the appellants/writ petitioners to the Additional District Magistrate, Sabhapati of Domjur Panchayat Samity, Pradhan of Begri Gram Panchat, the concerned Block Development Officer etc.. However, we are

of the view that fresh comprehensive representations should be made by the appellants before the concerned authorities.

Accordingly, we grant liberty to the appellants to make fresh representation as regards the issue of conversion of the concerned plot of land before the concerned authority within three weeks from date with copy to the private respondents. If such a representation is made, the competent authority shall dispose of such representation, in accordance with law, by a reasoned order, within a period of eight weeks from the date of receipt of the representation, after giving an opportunity of hearing to the appellants, the private respondents, any other concerned party or their authorized representatives. The order so passed, shall be communicated to the parties within a week from the date of the order. Needless to say that if the competent authority finds any infraction of law on the part of the private respondents, necessary action will be taken by the authority in accordance with law.

In so far as the issue of alleged unauthorized construction is concerned, the appellants will be at liberty to make a comprehensive representation to the concerned authority within three weeks from date, with a copy to the private respondents. If such a representation is made, the competent authority shall dispose of such representation, in accordance with law, by a reasoned order, within a period of eight weeks from the date of receipt of the representation, after giving an opportunity of hearing to the appellants, the private respondents, any other concerned party or their authorized representatives. The order so passed, shall be

communicated to the parties within a week from the date of the order. Needless to say that if the competent authority finds merit in the complaint of the appellants, necessary remedial action will be taken by the authority against the private respondents in accordance with law.

We make it clear that we have not gone into the merits of the disputes between the parties. The competent authorities referred to above shall decide the representations of the appellants, if made within the time period prescribed without being influenced by any observation in the order of the learned Single Judge which is impugned before us or in our order.

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

The order impugned before us is modified to the aforesaid extent.

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

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)