

D/L
Item No. 05
02.08.2023
KOLE

MAT 888 of 2023
With
IA No. CAN 1 of 2023
With
IA No. CAN 2 of 2023
Gadadhar Mondal
-Vs.-
The State of West Bengal & Ors.

Mr. Sabyasachi Mukherjee,
Mr. B. Dey,
Mr. D. Chowdhury,
Mr. M. Khanna,
Mr. S. N. Ahmed,
Mr. M. Nandy

...for the appellant.

Mr. Anirban Ray, Ld. GP,
Sk. Md. Galib,

...for the State.

Md. Apzal Ansari,

...for the respondent no. 5.

Mr. K. Hassan,

...for the respondent no. 13.

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

An order dated April 26, 2023, *interim* in nature, in the sense that the writ petition being WPA 5257 of 2023 on which the order was passed, is still pending before the learned Single Judge, is under challenge in this appeal.

The appellant has approached the learned Single Judge assailing a tender process and execution of a ferry ghat lease in favour of the private respondent, pursuant to the tender process as the private respondent emerged as the highest bidder.

The learned Judge refused to pass any *interim* protective order and directed exchange of affidavits. The learned Judge made the matter returnable before Her Ladyship on May 15, 2023.

On May 15, 2023, the instant appeal was presented by the writ petitioner against the order dated April 26, 2023.

The appellant is aggrieved by certain observations made in the said order. Firstly, the learned Advocate points out that the learned Judge has observed that there has been gross suppression of material facts by the petitioner. Secondly, the learned Judge has noted that since the successful bidder has started operation from February 1, 2023, and has invested huge amount of money, the question of preventing him from operating the ferry ghat does not arise at this stage.

We see that the learned Judge has *prima facie* found that the writ petitioner could not make out a case for *interim* order. The observations made by the learned Judge are tentative and only for the purpose of disposing of the writ petitioner's prayer for *interim* order. We are not inclined to interfere as the learned Judge is yet to decide the writ petition finally upon exchange of affidavits.

We extend the time for the respondents to file affidavit in opposition to the writ petition till August 14, 2023. Reply, if any, thereto be filed by August 17, 2023.

The parties would be at liberty to mention the matter before the learned Single Judge having determination to hear the writ petition upon completion of affidavits or upon expiry of the time granted by us for filing affidavits.

Learned Advocate for the appellant makes a prayer that the hearing of the writ petition should be given some precedence. The appellant/writ petitioner may make such a prayer before the learned Single Judge. The learned Judge may expedite the hearing of the writ petition to the extent the business of the court may permit.

Learned Advocates for the parties made submissions touching the merits of the case. We are not recording such submission since we are not inclined to go into the merits of the case.

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

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.)