

10.08.2023
Item No.13
gd/ssd

MAT/1238/2023
CAN/1/2023
STATE OF WEST BENGAL
VS
SAMRAT SAMANTA AND ORS.

Mr. Amitesh Banerjee,
Ms. Amrita Panja Moulick
..for the Appellant.

Mr. Moyukh Mukherjee,
Mr. Pritam Roy
..for the Respondent No.1.

1. This intra court appeal is directed against the order dated 30.06.2023 in WPA 15435 of 2023.

2. The said writ petition was filed by the respondents praying for issuance of a Writ of Mandamus to direct the respondent nos.1 to 5, namely, one of the appellants herein to show cause as to why the first FIR and all subsequent orders passed should not be quashed; to direct the respondent nos.1 to 3 to release the writ petitioners if they are arrested subsequently in connection with any pending and other cases and for a direction to restrain the respondent nos.1 to 3 from registering any FIRs against the writ petitioners without the leave of the court; not to take any coercive action against them and in the alternative to direct the respondent nos.1 to 3 to show cause as to why the investigation in connection with the cases should not be transferred to the Central Bureau of Investigation. The writ petitioners had also prayed for

other ancillary reliefs in the writ petition. The writ petition was filed raising the contention that the appellant is acting in flagrant of violation of principles of natural justice and as such depicts highhandedness and mechanical action and it amounts to miscarriage of justice. That the appellant is harassing the writ petitioners by lodging and fabricating FIRs against them, and acting in a malafide and malicious manner.

3. It is submitted by the learned advocate appearing for the respondents/writ petitioners that multiple FIRs were registered against the writ petitioners on the selfsame cause of action which clearly amounts to harassment.

4. The learned writ court by the impugned order has recorded the number of FIRs which are pending against the writ petitioners and has also recorded the submission made on behalf of the State that there are no warrants pending against the writ petitioners in those cases. The learned writ court directed that no coercive steps shall be taken against the writ petitioners by the State police in respect of the pending FIRs or any other proceedings that may be registered against them until 15th July, 2023. However, permitted the investigation to be continued.

5. The learned senior standing counsel for the appellant/State has placed reliance on the decision of the Hon'ble Supreme Court in *Neeharika Infrastructure*

Pvt. Ltd. v. State of Maharashtra and Others reported in 2021 SCC Online SC 315 wherein the Hon'ble Supreme Court had set out as to whether the High Court would be justified in passing an order of interim stay of investigation or an order not to initiate coercive steps.

6. It is submitted that the order passed in the writ petition is being taken advantage of by other persons who have also filed writ petitions for similar relief.

7. Therefore, the appellant/State has filed the present appeal.

8. After we have elaborately heard the learned advocates for the parties, we are of the view that the appeal filed by the State has become infructuous inasmuch as the order and direction issued by the learned Single Bench was effective only upto 15th of July, 2023. The order came to be passed by taking note of the facts of the case as pleaded in the writ petition and it is not clear as to how the order which is impugned in this appeal can be treated as a precedent in any other case.

9. Since the order and direction issued by the learned writ court has worked itself out, we are of the view that occasion does not arise in this case to apply the decision of the Hon'ble Supreme Court in *Neeharika Infrastructure Pvt. Ltd.* to render the decision.

10. It will be well open to the appellant/State to canvass all the grounds in other matters which are pending which obviously will be decided considering the facts and circumstances of the respective cases.

11. With the above observation, the appeal stands disposed of.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)