

10.10.2023
Item No.30
gd/ssd

CO/3174/2023
SUBIR KUMAR DATTA
VS
SUBHAS CHANDRA DUTTA AND ANR.

Mr. Amal Krishna Saha,
Mr. Sankar Biswas,
Ms. Ananya Adhikary
..for the Petitioner.

Mr. Tanmoy Mukherjee,
Mr. Koushik Roy,
Mr. Souvik Das,
Mr. Rudranil Das
..for the OP No.1.

Mr. Subhabrata Das,
Mr. Mrinal Kanti Das,
Mr. Kartick Kumar Goyal
..for the OP No.2/Municipality.

The complainant against an unauthorized construction of a premises situated within the jurisdiction of North Barrackpore Municipality has filed this application challenging an order being No.5 dated August 31, 2023 passed by the learned Civil Judge (Junior Division), 2nd Court at Barrackpore in Municipal Appeal No.3 of 2023.

By the order impugned the prayer for stay filed by the opposite party no.1 herein was allowed till the disposal of the appeal.

Mr. Saha, learned advocate appearing for the petitioner submits that the learned Civil Judge ought not to have passed an order of stay till the disposal of

the appeal without a copy of such application being served upon the North Barrackpore Municipality.

Mr. Mukherjee, learned advocate appearing for the opposite party no.1 submits that challenging the order of demolition dated February 21, 2023 passed by the Board of Councilors and communicated through the Chairman, North Barrackpore Municipality was challenged by the opposite party no.1 herein by filing a writ petition being WPA 5309 of 2023.

The Coordinate Bench by an order dated July 17, 2023 observed that if the person responsible fails to obtain any order staying/modifying/setting aside the impugned order of demolition by August 31, 2023, then it will be open for the North Barrackpore Municipality to take necessary steps to proceed with the demolition of unauthorized construction.

Mr. Mukherjee submits that pursuant to the order passed by the Coordinate Bench, the instant Municipal Appeal has been preferred.

After hearing the learned advocates for the parties, this court is of the view that interest of justice would be subserved if the Municipal Appeal is directed to be disposed of expeditiously.

Mr. Das, learned advocate representing the Municipality submits that the Municipality has not yet entered appearance in the said Municipal Appeal.

He undertakes that the Municipality shall enter appearance in the Municipal Appeal on or before October 17, 2023.

Mr. Saha submits that the hearing of the Municipal Appeal is fixed on November 17, 2023.

In view thereof, CO 3174 of 2023 is disposed of by requesting the learned Civil Judge (Junior Division), 2nd Court at Barrackpore to take up the hearing of the Municipal Appeal No.3 of 2023 on the next date fixed i.e. on November 17, 2023 and to dispose of the same as expeditiously as possible but positively by the end of December, 2023 without granting any unnecessary adjournments to either of the parties.

There will be no order as to costs.

Urgent certified copy of this order, if applied for, be given to the learned advocates for the parties on usual formalities.

(HIRANMAY BHATTACHARYYA, J.)