

06 31.07.2023
rkd Ct.15

W.P.A. 21246 of 2018

Tapan Bhattacharyya @ Tapan Kumar Bhattacharyya
-vs-
The State of West Bengal & Ors.

Mr. Prabir Maji,
Mr. Kalyan Kumar Bhattacharjee,

....for the petitioner.

The writ petition is taken up for consideration in presence of the learned advocate representing the petitioner. However, no one is representing the respondent nos. 6 and Burdwan Municipality in spite of service of notice upon them.

Affidavit-of-service filed on behalf of the petitioner is taken on record.

Learned advocate for the petitioner submits that pursuant to the observations made by the coordinate Bench in the order dated 15th January, 2019 passed on this writ petition the appeal was again heard after filing of an application under Section 151 CPC whereby prayer was made by the respondent no.6 for staying the operation of the order dated 25th September, 2017 passed by the Municipality. An order dated 25th January, 2019 was passed by the Civil Judge (Jr. Division), 2nd Court, Burdwan has been placed before this Court wherefrom it appears that in consideration of

petition under Section 151 CPC the impugned order of the Municipality dated 25th September, 2017 was stayed for a limited period.

The learned advocate representing the petitioner submits today that still the appeal is pending and the interim order passed on 25th January, 2019 has been extended from time to time.

In the present writ petition the petitioner who is respondent no.3 in the appeal preferred by the respondent no.6, has prayed for implementation of demolition order dated 25th September, 2017 passed by the concerned authority of Burdwan Municipality.

It further appears from the order dated 15th January, 2019 passed by the coordinate Bench on this writ petition that the construction in question has been partially demolished since it was submitted before the coordinate Bench on 15th January, 2019 that excepting two pillars rest of the deviated portions were demolished.

Today it has been submitted on behalf of the petitioner that the appeal preferred by the respondent no.6 against the demolition order dated 25th September, 2017 is still pending before the appropriate civil Court.

In view of aforesaid scenario it appears that during pendency of the appeal preferred by the respondent no.6 no further order need be passed on this writ petition. This Court finds it proper to dispose of the writ petition with a leave to the petitioner to take steps in accordance with law after the appeal preferred by the respondent no.6 is disposed of, if necessary.

This Court hope and trust that the appeal preferred by the respondent no.6 shall be disposed of expeditiously.

Accordingly, the writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)