

10-02-2023
ct no. 13
Sl.19
pk

WPCRC 175 of 2022
in
WPA 8328 of 2021

Krishna Kanta Mandal

-Versus-

Mrs. Rinku Ghosh

Mr. Jayanta Mitra

...for the petitioner (in WPA 8328 of 2021)

Mr. Tanweer J. Mandal,

Ms. Somashree Dey

...for the Pradhan/alleged contemnor

It is submitted that the order dated 1st December, 2022 was carried in appeal being MAT No. 1911 of 2022.

It is submitted by counsel for the petitioner that the portion of the building constructed by the private respondent no. 19 on the petitioner's land, has been demolished by the Pradhan. There is some part of the construction which still remains albeit not on the land claimed by the petitioner.

Counsel for the petitioner places before this Court an order passed by the learned Civil Judge (Junior Division), 4th Court, Burdwan in T. S. No. 698 of 2022 dated 22.12.2022.

It appears from the said order that a suit by the respondent no. 19 against demolition was entertained by the Civil Judge in view of the

clarifications in order dated 19.12.2022 passed by the Division Bench of this Court in MAT 1911 of 2022. The plaintiff in the suit has only relied upon the clarifications granted by the Division Bench in 4th paragraph at page 6 of its order. The other parts of the order particularly page 3 of the Division Bench in the third paragraph appear to have been completely ignored by the Civil Judge.

What appears to have been clearly ignored is that, no permission or sanction from the Panchayat was obtained by the respondent no. 19 to construct the entirety of the building-in-question. The said building was therefore directed to be demolished by this Court in its order dated 1st December, 2022 and has been confirmed by the Division Bench of this Court in the order dated 19.12.2022 (*supra*).

In that view of the matter, the Court directs the Pradhan of the Gohagram Gram Panchayat to carry out demolition of the entire building, illegally constructed by the respondent no. 19.

The Civil Judge (Junior Division), 4th Court, Burdwan ought to have exercised more discretion and care in scrutinizing and appreciating the orders of the High Court dated 1st December, 2022 (This Court) and 19.12.2022 (*supra*).

Any other rights that the private respondent may have remaining in the civil suit may be agitated in accordance with law.

The order of the status quo passed by the court below in the said T. S. No. 698 of 2022 shall accordingly stand interfered with to that extent.

The Registry shall communicate a copy of this order to the Civil Judge (Junior Division), 4th Court at Burdwan.

With the aforesaid directions, WPCRC 175 of 2022 is disposed of.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)