

30.01.2023
Item No.8.
Court No.6.
AB

M.A.T. 1650 of 2022
With
IA CAN 1 of 2022

Surojit Mahapatra
Vs
The State of West Bengal & Others

Mr. Dipanjan Datta,
Mr. Sayan Datta,
Ms. Rituparna Saha,
Ms. Reshma Chatterjee,
Ms. Tanusree Bag,
Ms. Manali Sarkar For the Appellant.

Mr. Lalit Mohan Mahata,
Ms. Kumkum Das For the State.

Mr. Rajdeep Bhattacharya
 For the Respondent Nos.11-14.

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

This appeal is directed against a judgment and order dated May 17, 2022, whereby the appellant's writ petition being WPA No.6315 of 2020 was disposed of by granting liberty to the appellant/writ petitioner to approach the Competent Authority with his grievance.

The appellant had approached the learned Single Judge with the grievance that the private respondents had made unauthorized construction on the concerned plot of land but the concerned Gram Panchayet was not taking steps despite complaint having been lodged by the appellant.

Before the learned Single Judge, learned Advocate for the concerned Gram Panchayet submitted that the area, wherein the impugned construction has been raised, is a notified area under a Development Authority and as such, the Gram Panchayet was not the plan sanctioning Authority. It was further stated that the records in the Office of the Gram Panchayet did not show that any building plan for the impugned construction was sanctioned by the Gram Panchayet.

It was further submitted before the learned Judge on behalf of the private respondents as well as the concerned Zilla Parishad that as the building was G+3 storeyed, the sanctioning Authority was the Zilla Parishad and the Zilla Parishad had accorded sanction to the building plan submitted by the private respondents, on December 18, 2019. It was further submitted that a Completion Certificate has also been issued by the Zilla Parishad in respect of the impugned construction.

Learned Advocate for the appellant points out that the learned Single Judge has recorded that by a notice dated July 23, 2019, the concerned Sub Divisional Officer had directed the private respondents to stop the construction. However, the private respondents disobeyed such order and continued with the construction. Further, the plan was allegedly sanctioned on December 18, 2019. This would indicate that in July, 2019, when the 'Stop Work Notice' was

issued by the Sub Divisional Officer, the private respondents were already in the process of making construction without having any sanctioned plan therefor. Hence, learned Advocate for the appellant says that the construction is unauthorized.

We have heard learned Counsel for the parties. The fact remains that the construction has been completed. Completion Certificate has been issued by the concerned Zilla Parishad. The learned Judge has rightly declined to interfere and has disposed of the writ petition by granting liberty to the appellant/writ petitioner to approach the concerned Zilla Parishad with his grievance.

Learned Advocate for the appellant says that the appellant is not aware as to which is the Development Authority, which has jurisdiction over the area, in which the construction has been made. The appellant will be at liberty to seek clarification from the appropriate Officer in the State Government. If such clarification is sought, the same shall be furnished forthwith.

We do not see any apparent infirmity in the order under appeal. We do not interfere. However, if the appellant finds that the Competent Authority is not the Zilla Parishad but any other Authority, he will be at liberty to make his representation to such Authority instead of the Zilla Parishad. Such Authority in that case, shall decide such representation by way

of a reasoned order, in accordance with law, after giving opportunity of hearing to all concerned parties, including the appellant and the private respondents herein and also any other party, who may have acquired any right, title or interest in respect of the impugned construction. If the representation is made within four weeks from date, the same shall be disposed of as aforesaid, within eight weeks from the date of receipt of the representation. If the Authority finds merit in the grievance of the appellant, appropriate consequential steps shall be taken by the Authority.

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

M.A.T. No.1650 of 2022 is, accordingly, disposed of along with IA CAN 1 of 2022.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)

