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Item No. 13
17.11.2023
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**MAT 2013 of 2023
With
IA CAN 1 of 2023**

**Surajit Mondal & Anr.
-Vs.-
The State of West Bengal & Ors.**

Mr. Sarthak Burman,

...for the appellants.

By consent of learned Advocate appearing for the appellants, the appeal and the connected application are taken up for hearing together.

This appeal is directed against a judgment and order dated October 3, 2023, whereby the appellants' writ petition being WPA 17042 of 2023 was disposed of by a learned Single Judge of this Court.

The appellants had approached the learned Single Judge alleging illegal and unauthorized construction at the instance of the private respondents. It was alleged that the impugned construction has blocked the ingress to and egress from the land of the petitioners.

The learned Judge, after going through the averments in the writ petition, opined that for the purpose of removal of the obstruction caused to the ingress to and egress from the petitioners' land, the Pradhan will not be the appropriate authority to decide the issue. It will be open for the writ petitioners to approach the appropriate civil forum for remedy. With these observations, the writ petition was disposed of.

Being aggrieved, the writ petitioners are before us by way of this appeal.

From the affidavit of service filed in court today, we find that the official respondents have been served. However, nobody appears for them. The private respondents were sought to be served but their premises were found to be locked and an intimation was given to them by the postal department. Nobody appears for the private respondents. However, we are of the view that the order that we propose to pass, shall not prejudice the private respondents and accordingly, we do not deem it necessary to defer the hearing of this appeal.

Learned Advocate for the appellants says that representations have been made by the appellants to the concerned authorities including the concerned Block Development Officer, the Pradhan of Kamrabad Gram Panchayat, the Sub-divisional Officer, Baruipur and the District Magistrate, South 24 Parganas. All such representations are dated May 3, 2023. Such representations have not received the attention of the authorities.

We are of the view that the ends of justice will be served if the appellants' representation is considered by the competent Authority. It appears that the Gram Panchayat is the Authority in the concerned area for granting permission for any proposed construction. Therefore, the Panchayat will be the appropriate Authority to consider whether a construction has been made illegally or not.

Accordingly, we direct the Pradhan of Kamrabad Gram Panchayat, being the respondent no. 6 herein, to consider and dispose of the appellants' representation dated May 3, 2023 (page 92 of the stay application), by a reasoned order, in accordance with law and the applicable rules and regulations, if any, within a period of eight weeks from the date of receipt of a copy of the representation along with a copy of this order, after granting sufficient opportunity of hearing to the appellants as also the private respondents or their authorized representatives. In the event the Pradhan finds that there is substance in the complaint of the appellants, he will take necessary consequential steps in accordance with law.

We have not gone into the merits of the appellants' complaint. The Pradhan will take an informed decision in accordance with law.

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

The appeal and the connected application are, accordingly, disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)