

20.12.2023
Item No.10
Court No.6.
S. De

M.A.T. 2292 of 2023
With
I.A. No. CAN/1/2023
Subrata Mondal.
Vs
The State of West Bengal & Ors.

Mr. Subhrangsu Panda,
Ms. Ina Bhattacharyya,
Ms. Mithu Singha Mahapatra,
...for the appellant.

Mr. Mridul Kanti Sasmal,
Mr. Subrata Ghosh,
...for the respondent nos. 4, 5 & 6.
Mr. Amal Kr. Sen, Ld. AGP,
Mr. Lal Mohan Basu, ...for the State.

Mr. Mekhla Sinha,
Ms. Malabika Roy Dey,
...for the Howrah Zilla Parishad.

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

A judgment and order dated October 4, 2023, whereby the appellant's writ petition, being WPA 18100 of 2023 was disposed of by a learned Single Judge of this Court, is assailed in this appeal by the writ petitioner.

It appears that the writ petitioner has made a representation to the respondent authorities including the Prodhan of Dhulasimla Gram Panchayat, complaining of unauthorized construction made by the

private respondents herein without obtaining due conversion of the land in question.

The learned Judge noted that the representation was pending consideration. Accordingly, the learned Judge disposed of the writ petition with a direction on the Prodhan of the aforesaid Panchayat to dispose of the representation made by the writ petitioner, in accordance with law, after giving an opportunity of hearing to all necessary parties including the writ petitioner, within a period of three months from the date of communication of the order, by passing a reasoned order. A spot inspection was also directed to be conducted to ascertain the nature and extent of unauthorized construction. It was further directed that if the Prodhan is of the opinion that the construction has been made either in violation of the sanctioned plan or without a sanctioned plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

The appellant/writ petitioner says before us that the private respondents have physically assaulted him in the past. He is afraid that if he attends the proceedings before the Prodhan, he will be attacked again and may even be murdered. He says that the State respondents should be directed to hold a local inspection and file a report before this Court. Although a co-ordinate Bench in a Public Interest

Litigation instituted by this appellants has directed that police protection be provided to him, no such protection has till date been provided. The appellants has filed a contempt application for violation of such order of the co-ordinate Bench.

It will not be proper for us to make any observation regarding the Public Interest Litigation and the orders passed therein.

As regards the appellants prayer that we direct the State to hold a local inspection and file a report before us, we are unable to accede to such prayer. We are not going to fish out evidence for the appellants. The learned Judge has passed a reasonable order for redressal of the grievance of the appellants/writ petitioner. We see no reason to interfere with such order. We only clarify that at the spot inspection and the hearing to be granted by the Prodhans, the appellants will be entitled to be represented through his authorized representative.

The appeal being MAT 2292 of 2023 is disposed of along with the application being I.A. No. CAN 1 of 2023.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(M.V. Muralidaran, J.)

(Arijit Banerjee, J.)