

30-08-2023
Court No.2
Sh/18.

**In The High Court At Calcutta
Jalpaiguri Circuit Bench**

W.P.A. 1494 of 2023

**Sanjoy Ghosh
-Vs-
State of West Bengal & Ors.**

Mr. Sandip Dutta,
Mr. Sudip Kumar Paul.
For the petitioner.

Mr. Milindo Paul,
Mr. Nabankur Paul,
Mr. Subham Das,
Mr. Abhishek Sarkar.
..For the intervenor.

Mr. Hirak Brman,
Ms. Bedashruti Bose.
For the State.

Mr. Deborshi Dhar.
For the Municipality.

Affidavit of service filed today in Court is taken on record.

In the previous round of writ petition, WPA 1136 of 2023 the landlord of the premises has complained of that the present writ petitioner in this writ petition being the alleged tenant thereat carried out some illegal/unauthorized construction under the garb of repairing of his rented premises. By an order dated 6th June, 2023 a co-ordinate Bench disposed of the said previous writ petition by directing the Municipal Authority to look into the issue and decide the issue by passing a reasoned order.

Today when the writ petition was taken up for consideration Mr. Sandip Dutta, learned counsel appearing for the petitioner submits that the reasoned

order has also been passed on August 17, 2023 and a copy has been made over to this Court today. The same is taken on record.

Learned counsel appearing for the petitioner submits that he shall file an interlocutory application challenging the said reasoned order dated August 17, 2023 and accordingly prayed for an adjournment of the writ petition today.

Mr. Nabankur Paul, learned counsel intervened on behalf of the landlord and submits that in the instant writ petition the petitioner deliberately did not implead his client who is the landlord of the premises and at his instance the previous writ petition was filed and the order was passed by the co-ordinate Bench on 6th June, 2023. He submits that in terms of the said order dated June 6, 2023 the reasoned order was passed on August 17, 2023. Mr. Paul submits that without impleading his client who is the landlord of the premises in the facts of the case as stated above, this writ petition cannot be heard.

Mr. Deborshi Dhar, learned counsel appears for the respondent no.3. He has confirmed the Court that the reasoned order dated August 17, 2023 as referred to above has been passed. He submits that with the passing of the said reasoned order new cause of action has arisen which is not the subject matter of this writ petition.

Mr. Hirak Barman, learned counsel appearing for the State submits that he adopts the legal submission made on behalf of the Municipal Corporation.

After considering the submission made on behalf of the parties and on perusal of the averment made and the relief claimed in the instant writ petition, this Court is of the firm view that since the reasoned order dated August 17, 2023 has been passed, the petitioner cannot maintain this writ petition in its present form. By way of an interlocutory application the petitioner cannot seek relief on the said reasoned order dated August 17, 2023.

It is the settled law that the interim relief can only be claimed and passed in aid of the main relief claimed in the parent proceeding. The said reasoned order dated August 17, 2023 would give rise to a new and fresh cause of action to the petitioner and no relief can be claimed on the basis of the said reasoned order through an interlocutory application.

Inasmuch as, on perusal of the reliefs claimed in this writ petition this Court is also of the considered view that with the passing of the said reasoned order dated August 17, 2023 those reliefs cannot survive any further.

For the aforementioned reasons and discussions, this Court is of the view that, this writ petition has become infructuous and without any merit any further.

It is made clear that this Court has not gone into the merits of the claim of the writ petitioner in so far as the reasoned order dated August 17, 2023 is concerned. The petitioner shall be at liberty to challenge the said reasoned order dated August 17,

2023 strictly in accordance with law. It is also made clear that this Court has not gone into the fact and validity of the relationship between the landlord and the tenant.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

With the above observations this **Writ Petition being WPA 1494 of 2023** stands **dismissed** without any order as to costs.

Urgent Certified copy of this order, if applied for, be supplied to the learned counsel appearing for the parties on compliance of all requisite formalities.

(ANIRUDDHA ROY,J.)

