

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APO/54/2020
YOGITA GAURISARIA
VS
HIGH COURT AT CALCUTTA AND ORS

APO/57/2020
SMITA GAURISARIA
VS
HIGH COURT AT CALCUTTA AND ORS.

BEFORE:
THE HON'BLE THE CHIEF JUSTICE T. S. SIVAGNANAM
AND
The Hon'ble JUSTICE HIRANMAY BHATTACHARYYA
Date : 5TH JULY 2023.

Appearance :
Ms. Manju Agarwal, Adv.
Ms. Anju Manot, Adv.
...for appellant
Mr. Sukanta Chakraborty, Adv.
...for respondents 1 & 2
Mr. Subrata Saha, Adv.
...for respondent 8

The Court :- These intra-Court appeals have been filed by the eighth respondent in WPO/394/2019 challenging the order dated 3.2.2020.

The order reads as follows :-

“Learned advocate appearing for the petitioner submits that there are certain incurable defects in the writ petition. He seeks leave to withdraw the same and file afresh with better particulars.

On such submission W.P. No. 395 of 2019 is dismissed as “not pressed” with liberty to file fresh petition with proper particulars.

Urgent certified photocopy of this order, if applied for, be supplied to the parties on compliance of usual legal formalities”

Learned Advocate appearing for the appellant/ninth respondent submitted that though the writ petition was dismissed as “not pressed” the learned Single Bench ought not to have granted liberty to file fresh petition with appropriate particulars more particularly there was an earlier writ petition which was filed for the self-same relief and the same was dismissed as withdrawn on the very same ground that better particulars are required to be furnished. It is seen that in terms of the impugned order dated 3.2.2020 the original writ petitioner namely Mittravanu Das had filed two other writ petitions in WP/172/2020 and WPO/173/2020 and the matter is now pending before the learned Single Bench.

Thus, the order impugned has worked itself out. However, taking note of the said submission made by the learned Advocate for the appellant we grant liberty to the appellants to file their affidavit-in-oppositions in WPO/172/2020 and WPO/173/2020 in which the appellants will be entitled to raise the issue relating to the maintainability of these writ petitions as preliminary objection. The appellants shall file their affidavit-in-oppositions in WPO/172/2020 and WPO/173/2020 within a period of six weeks from date. Reply, if any within two weeks thereafter

Let the writ petitions be listed after eight weeks.

With the above observation and liberty, both the appeals stand disposed of.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)