

01.07.2024
Item No. 41
Ct. No. 01
AN

**FMA 476 of 2024
with
IA No. CAN 1 of 2024**

**Bharatia Bigyan o Yuktibadi Samiti & anr.
Vs.
The State of West Bengal & Ors.**

Mr. Saumyen Datta
Mr. Ujjwal Kumar Sarkar
... For the Appellants

1. This intra-Court appeal filed by the writ petitioner is directed against the order dated 30.01.2024 in WPA 29160 of 2022. By the said order, the writ petition filed by the appellant was dismissed. In the said writ petition, the appellants had sought for a direction upon the State Vigilance Commission, West Bengal to proceed with the complaint given by the appellants dated 29.09.2022.

2. Admittedly, the appellants have filed a suit before the City Civil Court at Calcutta, 7th Bench in T.S. No. 570 of 2018 wherein a prayer has been made for a decree and declaration that the notice dated 08.02.2018 against the Registrar, the defendant no. 1 is still binding on the defendants and enforceable in the eye of law. Further, declaration has been sought for against the Registrar that he is only entitled to and has an obligation to accept the annual return of the Society from the plaintiffs and not from the defendant no. 2 one Mr. Prabir

Ghosh. For a mandatory injunction to direct the Registrar to accept all the subsequent annual returns from the plaintiffs and discard all the annual returns and other papers submitted by defendant nos. 2 to 13 and for a consequential permanent injunction. Interim prayers have also been sought for in terms of the main prayer sought for in the suit. The grievance against all the appellants is against the said Prabir Ghosh contending that he has no jurisdiction or power to submit any documents to the registrar and re-construction of records cannot take place nor the records submitted by the said Prabir Ghosh and others can be accepted by the Registrar. In this regard, a complaint has been given to the State Vigilance Commission. Admittedly, the appellants have sought for a larger relief before the Civil Court and according to the appellants, Prabir Ghosh and others are not entitled to submit any returns or documents under the provisions of the Societies Registration Act, the same has to be agitated before the Civil Court since in the civil suit, the appellants have sought for a comprehensive relief.

3. The learned Single Judge, in our view, rightly noted that pendency of the civil suit at the instance of the appellants wherein prayers have been couched that the defendants/opposite party nos. 2 to 13 should be enjoined from functioning as office bearers in the name of the Samity using the stamp and seal of the Samity. That apart, the learned Single Judge also noted that the 2nd defendant in suit viz. Prabir Ghosh who is no more. In the light of the above undisputed factual position, the prayers

sought for in the writ petition was rejected with an observation that the order will not preclude the appellants/writ petitioner to proceed with the suit which is pending before the civil court making it clear that the civil court is free to decide the lis in the pending suit without being influenced by the observations made by the Court.

4. Thus, we find that the findings rendered by the learned Single Judge are unimpeachable and cannot be interfered with. If the appellants' case is that there are certain subsequent developments after the filing of the civil court, it will be well open to the appellants to seek for appropriate interim relief in the pending civil suit and if such prayer is made, it is needless to state that the civil court will decide the matter uninfluenced by the observations made by the learned Single Judge in the impugned order or in this judgment.

5. In the result, the appeal stands **disposed of**. Consequently, the connected application also stands disposed of.

(T. S. Sivagnanam)
(Chief Justice)

(Hiranmay Bhattacharyya, J.)