

16.
09-05-2024
(Ct. no.06)
debajyoti

**IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
APPELLATE SIDE**

**MAT 642 of 2024
+
IA NO:CAN/1/2024**

**Tanay Sarkar
Vs.
The State of West Bengal & Ors.**

Mr. Rishabh Ahmad Khan
... For the Appellant.

Mr. Debabrata Ray
... For Respondent No.4.

Affidavit-of-Service filed in Court today be taken on record. In spite of service, nobody appears for the private respondent.

A judgment and order dated March 13, 2024, whereby a learned Judge of this Court disposed of the appellant's writ petition being WPA 25625 of 2023, is the subject matter of challenge in this appeal.

The appellant approached the learned Single Judge with the grievance that the private respondent has raised unauthorized construction and is continuing with such illegal construction. The private respondent did not appear before the learned Single Judge also.

The learned Judge called for a report from the concerned Gram Panchayat. Such report was filed. The learned Judge noted from such report that the Panchayat has found unauthorized construction at the instance of the private respondent. Such finding

was arrived at by the Panchayat after holding spot inspection and circulating the report thereof amongst the parties and after granting opportunity of hearing to the parties.

The learned Judge further noted that the Panchayat, vide communication dated December 29, 2023, had forwarded its finding to the concerned Sub-Divisional Officer for taking necessary consequential action in the matter. The learned Judge directed the Sub-Divisional Officer, who was the respondent no.5 in the writ petition and is the respondent no.5 in this appeal, to take necessary consequential steps in terms of the findings of the concerned Panchayat, in accordance with law, at the earliest, but positively within a period of eight weeks from the date of communication of the order. The learned Judge disposed of the writ petition with the following further directions:-

“ Learned advocate for the petitioner submits that despite a finding that there is unauthorised construction and despite stop work notices issued, the private respondent is merrily continuing with the construction work.

The Inspector-in-Charge, Raiganj Police Station is directed to keep strict vigil over the property to ensure that construction in any manner whatsoever is not carried out at the subject premises till the matter is finally disposed of by the Sub-Divisional Officer.

The private respondent is restrained from raising any further construction and further restrained from selling/transferring/alienating the unauthorised construction in favour of any third party. ”

The writ petitioner has come up by way of this appeal.

Learned advocate for the appellant says that the Sub-Divisional Officer has not taken steps pursuant to the order of the learned Single Judge. The private respondent is continuing with the illegal construction work, without obtaining requisite sanctioned plan. The construction is being made in such a manner that it is a real threat to the persons, who live in the vicinity thereof, including the appellant. The unauthorized construction may collapse any day, which may have fatal consequences.

We do not find any apparent infirmity in the order under appeal. The learned Judge has directed the concerned Sub-Divisional Officer to take necessary action, in accordance with law, on the basis of the finding of the concerned Gram Panchayat. We see no reason to interfere with the order under appeal. Since the period of eight weeks granted by the learned Single Judge is going to be over soon, we extend the time for the concerned Sub-Divisional Officer to carry out the order of the learned Single Judge, by a period of four weeks from date. That is the outer limit. The concerned Sub-Divisional Officer shall take necessary steps in accordance with the provisions of the West Bengal Panchayat Act, 1973, on the basis of the finding of the concerned Gram Panchayat that the private respondent has raised unauthorized construction. The restraint orders passed by the learned Single Judge shall continue to operate.

The concerned Sub-Divisional Officer, being the respondent no.5 herein, shall file a compliance report

with the learned Registrar General of this Court within six weeks from date. Upon such report being filed, the learned Registrar General is requested to place the same before us.

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

Learned Registrar General is directed to communicate this order to the respondent no.5 herein.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of all necessary formalities.

(Prasenjit Biswas, J.) (Arijit Banerjee, J.)