

10.07.2024
Item No.03
Court No.11
Avijit Mitra

**MAT 1162 of 2024
with
IA No.CAN 1 of 2024
with
IA No.CAN 2 of 2024**

**Abdul Hai & ors.
- Versus -
State of West Bengal & ors.**

Md. Nauroz Rahber,
Mr. Muhammad Jawwad
...for the applicants
Mr. Chandi Charan De, Ld. A.G.P.,
Ms. Reshma Chatterjee
...for the State respondents
Mr. B.N. Ray,
Ms. Shitparna Ray
...for the respondent no.11

The present application being CAN 1 of 2024 has been preferred *inter alia* praying for leave to prefer appeal against the order dated 22nd May, 2024 passed by the learned Single Judge in the writ petition being WPA 11772 of 2024 directing the respondent no.4 in the writ petition to consider and dispose of the representation submitted by the writ petitioner/respondent no.11 herein within two weeks from the date of communication. It was further directed that pending disposal of the representation the respondent authorities shall not disturb the

peaceful possession of the writ petitioner in respect of the plot in question and shall not encroach upon the same in any manner whatsoever.

Mr. Rahber, learned advocate appearing for the applicants submits that the applicants are the residents of the locality where the writ petitioner resides. They are using the subject pathway for ingress and egress to the main road for the last forty years. Claiming ownership over the said pathway, the writ petitioner submitted representation to restrain the State respondents from undertaking any construction work over the same. In the said conspectus, the applicants were interested parties and they ought to have been impleaded as respondents in the writ petition.

The fact that the applicants are the residents of the locality of the writ petitioner is not disputed. In view thereof, the applicants were interested parties and they ought to have been impleaded in the writ petition. Accordingly, leave is granted to the applicants to prefer the appeal.

The application being CAN 1 of 2024 is disposed of.

The applicants/appellants have also preferred an application being CAN 2 of 21024 praying for stay of operation of the order dated 22nd May, 2024 passed in the writ petition.

Mr. Ray, learned advocate appearing for the respondent no.11 denies and disputes the contention of the applicants and also apprises this Court that pursuant to the order passed by the learned Single Judge, the representation of the said respondent was considered and disposed of by an order dated 18th June, 2024. Let the said order, as produced, be kept on record. A copy of the said order has also been handed over to Mr. Rahber in Court today.

Since the order of the learned Single Judge has already been executed and an order dated 18th June, 2024 has been passed by the concerned respondent upon hearing the writ petitioner, a fresh cause of action has arisen. In view thereof, no interference is called in the present appeal.

Needless to observe the aggrieved parties would be at liberty to challenge the order passed by the respondent no.4 before the appropriate forum, if so advised and in accordance with law.

It is made clear that as the appeal and the connected applications have been disposed of without calling for affidavits, the allegations levelled in the same against the respondents shall be deemed to have been denied.

With the above observations and directions, the appeal and the connected applications are disposed of.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Partha Sarathi Chatterjee,J.) (Tapabrata Chakraborty, J.)