

27
15.07.2024
Ct. No. 11
Jayanta

**MAT 1338 of 2024
with
CAN 1 of 2024**

**Prasanta Ghosh
Vs
The State of West Bengal & Ors.**

Mr. Soumyajit Bhatta
Mr. Sanjib Seth

.....For the petitioner.

Mr. Satyajit Talukdar

.....For the KMDA.

Mr. Sandipan Banerjee
Mr. Ankit Sureka
Mr. Sobhan Majumder

.....For the H.M.C.

Mr. Chandi Charan De, Ld. AGP
Mr. A. Sarkar

.....For the State.

The present writ petition has been preferred challenging an order dated 27th June, 2024 passed by the learned Single Judge in the writ petition being WPA 18986 of 2022. By the said order the learned Single Judge directed the respondent nos. 2 and 3 to file an additional report and serve copies thereof on all the parties prior to the returnable date and also granted liberty to the said respondent nos. 2 and 3 to take necessary steps in accordance with law under section 177 (1) of the Howrah Municipal Corporation Act, 1980 (in short, HMC Act), if so advised.

Mr. Bhatta, learned advocate appearing for the appellant submits that before deciding the issues

involved in the writ petition and having called for an additional report from the respondent nos. 2 and 3, the learned Single Judge ought not to have granted liberty to the said respondents to take necessary steps in accordance with law under Section 177 (1) HMC Act.

He further submits that the order impugned was passed on 27th June, 2024 and immediately thereafter by a notice dated 2nd July, 2024 the appellant was called for a hearing stating that if the appellant fails to appear no adjournment would be granted. As the appellant had no other option, he appeared before the authorities and prayed for an adjournment but in vain. However, no order has been communicated to the appellant till date. In the said conspectus, unless an interim protection is granted restraining the respondents from taking any step towards demolition of the building, the appellant would suffer irreparable loss.

Mr. Talukdar, learned advocate enters appearance on behalf of the KMDA and Mr. De, learned Additional Government Pleader enters appearance on behalf of the State.

Mr. Banerjee, learned advocate appearing for the respondent nos. 2 and 3 submits that the said respondents have proceeded strictly in terms of the order passed by the learned Single Judge on 27th June, 2024. The authorities issued a notice dated 2nd July, 2024 and the appellant duly appeared in the hearing.

Answering our query, Mr. Banerjee, however, submits that till date no order has been passed under Section 177 (1) of HMC Act though inspection and hearing have been concluded.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

The writ petition is pending and the issues involved in the same have not been finally decided. The learned Single Judge having allowed the respondent nos. 2 and 3 to file an additional report, as prayed for on their behalf, could have waited till filing of such report before granting liberty to the said respondent nos. 2 and 3 to take necessary steps in terms of Section 177 (1) of the HMC Act.

In the said conspectus, we direct that till the end of August, 2024 or till the next date of hearing before the learned Single Judge, whichever is earlier, the decision, if any, taken by the respondent nos. 2 and 3 in terms of Section 177 (1) of the HMC Act shall not be given effect to.

The order dated 27th June, 2024 passed in the writ petition is, accordingly, modified and the appeal as well as the connected application are disposed of.

As we have disposed of the appeal without inviting affidavits, the allegations levelled by the appellant

against the respondents shall be deemed to have been denied.

Parties would be at liberty to mention the writ petition before the learned Single Judge for final disposal.

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

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

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