

APOT/16/2024
WITH
WPO/1717/2023
IA NO. GA/1/2024
IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

ZAID ALAM
VERSUS
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE

The Hon'ble Justice ARIJIT BANERJEE
The Hon'ble Justice APURBA SINHA RAY
Date: 18th January, 2024

Appearance
Mr. Rishabh Ahmed Khan, Advocate
Mr. Sourav Guchhait, Advocate
....for the appellant
Mr. Alak Kunar Ghosh, Advocate
Mr. Swapan Kumar Debnath, Advocate
...for the KMC
Mr. Munshi Asiq Elahi, Advocate
Ms. Singdha Das, Advocate
...for the respondent no.5

The Court : An order dated January 11, 2024 passed by a learned Judge of this Court in GA/1/2024 being an application filed by the private respondent in the writ petition, who is the appellant herein, is the subject matter of challenge in this appeal.

The appellant herein has filed an application before the learned single Judge in the pending writ petition seeking fresh auction in respect of a stall in a municipal market. The writ petitioner has emerged as the highest bidder.

Earlier, the appellant herein was in possession of the stall in question. There have been earlier rounds of litigation between the parties.

The appellant is no more in possession. The writ petitioner has been put in possession of the stall by the Kolkata Municipal Corporation.

The appellant says that the writ petitioner has practiced fraud. He was not eligible to participate in the tender. The entire tender process should be cancelled. Departmental enquiry should be held in the matter. The learned Judge ought to have granted interim protection. Being aggrieved by refusal of the learned Judge to grant interim protection, the appellant has filed this appeal.

We have heard learned Advocates for the parties. Admittedly, the highest bidder is now in possession. We see no reason to put any kind of fetter on the person in possession who is the writ petitioner to utilize the concerned stall for his business. Hence, we are not inclined to grant any interim protection to the appellant herein.

Needless to say, if the appellant succeeds in his application before the learned single Judge, the legal consequences will follow.

The appeal and the application are accordingly disposed of.

We clarify that we have not touched the merits of the case.

[ARIJIT BANERJEE, J.]

[APURBA SINHA RAY, J.]