

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/69/2024
WITH WPO/1533/2023
GA/1/2024
BIMAL PRAKASH SARDA
VS
MANAS KUMAR BISWAS @
ASHOKE KUMAR BISWAS AND ORS..

BEFORE:

The Hon'ble JUSTICE ARIJIT BANERJEE

The Hon'ble JUSTICE M.V. MURALIDARAN

Date : 7th March, 2024.

Appearance:
Mr. Radhunath Chakraborty, Adv.
For the appellant
Mr. Alak Kumar Ghosh, Adv.
Mr. S. Panda, Adv.
....For K.M. C.
Mr. Sakya Sen, Adv.,
Mr. Anuj Singh, Adv.
Mr. Biswajib Ghosh, Adv.
Mr. Sumitava Chakraborty, Adv.
For respondent no. 1.

The Court:- This appeal is directed against an order dated February 7, 2024, passed by a learned single Judge of this Court in WPO/1533/2023 being a writ petition filed by respondent no. 1 herein.

The order impugned reads as follows:

“A report has been filed before this Court by the learned Advocate representing the Corporation signed by the Sub-Assistant Engineer (Civil) and the Assistant Engineer (Civil) on 01.02.,2024.

On a perusal of the report, it appears that the same is an incomplete one. The Corporation is directed to provide a complete

report with definite finding with regard to the existence of the premises nos. 76 and 84.

List the matter once again on 21.02.2024.”

The order has decided nothing. It has only directed Kolkata Municipal Corporation (in short 'KMC') to file a complete report with finding with regard to the existence of the concerned premises. This order is not appealable under Order 43 rule 1 of Code of Civil Procedure. By no stretch of imagination, can this order be said to be a judgment within the meaning of Clause 15 of the Letters Patent.

This is a misconceived and frivolous appeal bordering on abuse of process of law. The appeal is dismissed with cost assessed at Rs.30,000/-, to be paid equally to the respondent no. 1 and KMC, within a fortnight from date. In the event the cost is not so paid, both KMC and the respondent no. 1 will be at liberty to mention the matter before this Court for appropriate direction.

(ARIJIT BANERJEE, J)

(M.V.MURALIDARAN,J)

dg/