

10.03.2025
Item No.6
PG/KS
Ct. No.1

M.A.T. 246 of 2025
With
I.A. No. CAN 2 of 2025
Prasant Jaiswal & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Saptansu Basu, Sr. Adv.
Mr. Avik Ghatak
Mr. Shankarsan Sarkar
Mr. Tanmoy Sett

.....For the Appellants/Applicants

Mr. Jayanta Samanta, Ld. Jr. Govt. Adv.
Mr. Saurav Chaudhuri

.....For the State

Mr. Rajdeep Bhattacharya

.....For the Respondent Nos.7 to 9

Ms. Kavita Jaiswal
Mr. B. N. Pal

.....For the Respondent

In Re.: I.A. No. CAN 2 of 2025

1. This application has been filed by the appellants/writ petitioners to suitably modify/clarify the order dated 5th March, 2025 passed in M.A.T. 246 of 2025. For better appreciation, the order is quoted hereinbelow:-

“1. This intra court appeal is directed against the judgment and order dated February 6, 2025 passed in WPA 44 of 2025. As rightly pointed out by the learned single Bench that two civil suits are pending and in one such suit there is an order of status quo. In such circumstances, question of permitting the petitioner to enter into the property for the purpose of cleaning would not arise. If at all the appellant writ petitioner wants any such relief, it is well open to the appellant writ petitioner to approach the civil court for necessary direction.

2. The Additional Stamp Reporter has indicated that the appeal is defective on the ground that the names of the respondent nos.6, 7, 8 and 9 of the memorandum of appeal do not find place in the cause title of the impugned order. Though this is factually correct, the two applications were filed before the learned single Bench in CAN 1 of 2025 and CAN 2 of 2025 for addition of parties and those applications were allowed. However, the mistake which has occurred in the cause title was not corrected by including the names of the persons who have been added as parties. Therefore, we are sustaining the objection raised by the Stamp Reporter. Since the application for addition of party was allowed, the appellant is entitled to prosecute the appeal as such.

3. In the event, the appellants file an application before the civil court, the learned civil court is requested to give some priority to the said application considering the fact that the suit is pending from the year 2002.

4. Accordingly, the appeal and the connected application stands disposed of."

2. The learned Senior Advocate appearing for the writ petitioners submitted that the submission made on behalf of the appellants has gone down wrongly in paragraph 1, wherein the Court has observed that "In such circumstances, the question of permitting the petitioner to enter into the property for the purpose of cleaning out would not arise". It is submitted that this observation is likely to prejudice the appellants/writ petitioners, if they file an application before the Civil Court for which liberty has been granted in the order dated 5th March, 2025.

3. Learned advocate appearing for the private respondents submitted that if the appellants want to clean the property, it

goes without saying that unless they enter into the property, they would not be in a position to clean the property.

4. Be that as it may, as we have disposed of this appeal giving liberty to the appellants to approach the Civil Court, it is made clear that if an application is filed by the appellants before the Civil Court, the same shall be decided on merits and in accordance with law uninfluenced by any observation made in the judgment dated 5th March, 2025.
5. Needless to state that if an application is filed, the respondents therein would be entitled to file their affidavit-in-opposition, after which the Civil Court shall decide the matter on merits and in accordance with law.
6. With the aforesaid clarification, I.A. No. CAN 2 of 2025 stands disposed of.
7. No costs.
8. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S.SIVAGNANAM)
CHIEF JUSTICE

(CHAITALI CHATTERJEE (DAS), J.)