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19.06.2025
Ct. No. 11
Jayanta

FMA 749 of 2025
in
IA No. CAN 1 of 2025
in
IA No. CAN 2 of 2025

Amrita Jana Singh
Vs.
The State of West Bengal & Ors.

Mr. Gulam Mustafa
Mr. Syed Mosihar Rahaman
.... For the Appellant.
Ms. Jhuma Chakraborty
Mr. S. Adak
.... For the State.
Mr. Ritwik Pattanayak
.... For the Respondent nos. 5 to 7.

The present appeal has been preferred challenging an order dated 12th March, 2025 passed by the learned Single Judge in the writ petition being WPA 28900 of 2024. In the said writ petition the primary relief claimed by the writ petitioner was as follows:

‘to give police protection and/or police posting at the time of set-up grill at the staircase gate, dokanghar for get up 1st floor being Plot No. 3359, Khatian No. 2859, Mouza – Sarisari, J.L. No. 97, situated at Mollahat More under Police Station- Shyampur, District – Howrah and further commanding to give police protection of the petitioner as per application dated 07.11.2024 being annexure “P-2” to this Writ Petition.’

Mr. Mustafa, learned advocate appearing for the appellant submits that the appellant is the owner of the land situated at plot No. 3359, Khatian No. 2859, Mouza, Sarisari, J. L. No. 97, situated at Mollahat More under Police Station – Shyampur, District – Howrah (hereinafter referred to the said land). A G + 1 building has been constructed on the said land and the appellant is residing there. The private respondents, who are not the occupants of the said building, are illegally preventing the appellant from constructing a grill gate at the entrance of the said building for the safety and security of the occupants. As there is no dispute pertaining to the appellant's ownership and occupation of the said building and as there is a threat perception, the learned Single Judge ought to have issued necessary direction upon the police authorities to ensure that the private respondents do not prevent the appellant from constructing the grill gate.

According to Mr. Mustafa, the learned Single Judge erroneously refused to exercise discretion on a purported ground that the dispute in question is civil in nature. Such infirmity warrants interference of this Court.

Mr. Pattanayak, learned advocate appearing for the private respondents, however, denies and disputes the contention of Mr. Mustafa and submits that in an earlier round of litigation the appellant approached the Writ Court claiming similar reliefs but in the order dated 3rd

October, 2024 passed in the said writ petition being WPA 23462 of 2024, the learned Single Judge arrived at a categorical finding that there is a dispute amongst the parties with regard to title and possession of an immovable property. In view of the said order, the learned Single Judge rightly refused to exercise discretion in favour of the appellant.

Ms. Chakraborty, learned advocate, assisted by Mr. Adak, learned advocate appearing for the State respondents submits that the dispute amongst the parties is civil in nature and the documents collected in course of an inquiry would reveal that the appellant has also transferred the property to one Biswanath Bera.

When the matter was last taken up for hearing on 19th May, 2025, an adjournment was sought for on behalf of the appellant to produce before this Court the sanction plan on the basis of which the concerned building has been constructed. In spite of such direction though a supplementary affidavit has been filed by the appellant, no sanction plan has been annexed to the same.

Records further reveal that in the earlier writ petition, the learned Single Judge arrived at a finding that the dispute amongst the parties is as regards ownership and possession amongst the parties. The said order had not been challenged by the appellant. From the documents produced before us, it appears the appellant's claim involves disputed question of fact.

In the said conspectus, the learned Single Judge in our opinion rightly refused to exercise discretion in favour of the appellant.

In view thereof, no interference is called for in the present appeal. However, the police authorities shall ensure that no harm is caused to the parties in view of the dispute amongst them and nothing in this order shall prevent the appellant from initiating proceedings before any other Court or forum for seeking relief, in accordance with law.

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

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

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Reetobroto Kumar Mitra, J.) (Tapabrata Chakraborty, J.)