

05
21.07.2025
Ct. No. 11
Jayanta

MAT 1048 of 2025
in
IA No. CAN 1 of 2025

Sashank Shaw @ Shashank Raj Sahu & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Manoj Malhotra
Mr. Mainak Ganguly
.... **For the Appellants.**
Mr. Amal Kr. Sen, Ld. AGP
Ms. Ashima Das (Sil)
.... **For the State.**
Mr. Dipayan Kundu
.... **For the Respondent Nos 11 & 12.**

Affidavit-of-service, as filed, be kept on record.

The present appeal has been preferred challenging an order dated 23rd June, 2025 passed by the learned Single Judge in a writ petition being WPA 100 of 2025.

Records reveal that the writ petition was initially heard on 7th April, 2025 when the respondent no. 6 along with the respondent nos. 8 to 9 in the writ petition were directed to conduct a joint spot inspection and to file a report. The matter again appeared on 16th May, 2025 when the learned Single Judge directed the authorities to place a report of inspection on the adjourned date. Pursuant to such direction and upon conducting a field inspection, East Kolkata Wetlands Management Authority (hereinafter referred to as EKWMA) filed a report before the learned Single Judge and thereafter by

the order impugned dated 23rd June, 2025, the East Kolkata Wetlands Management Authority (hereinafter referred to as EKWMA) was directed to take steps for removal of the unauthorized construction in accordance with law and to bring back the Wetlands to its original state.

Mr. Ganguly, learned advocate appearing for the private respondent nos. 11 to 15/appellants herein submits that the appellants are the absolute owners of different plots of land within R.S. Dag nos. 9 and 9/69. The said plots of land were transferred by the writ petitioners, as would be explicit from the sale deeds annexed to the present stay application. The appellants were not granted any opportunity to file an exception to the report submitted by EKWMA and by the impugned order, the final relief, as prayed for, by the writ petitioners was granted at the interim stage.

He further submits that the writ petitioners approached the writ Court suppressing material facts. The writ petitioners preferred a Title Suit No. 821/2024 impleading the appellants herein in which the *ad-interim* injunction, as prayed for, by the writ petitioners, pertaining to the plot of land at R. S. Dag no. 9 was refused by the learned Civil Judge on 3rd January, 2024.

Mr. Kundu, learned advocate appearing for the writ petitioners/respondents, however, disputes the contention of the appellants and submits that the

appellants are illegally occupying the concerned plots of land, of which the writ petitioners are the owners and they are raising construction on the said plots and in the said conspectus the learned Single Judge rightly directed EKWMA to remove the unauthorized constructions, as found upon conducting a field inspection.

He further submits that a perusal of the report submitted by EKWMA itself would reveal that a field inspection was conducted and it was noticed that on a part of RS Dag no. 9, Mouza Jagatipota, JL no. 3, under P.S. Narendrapur, Dist. South 24 Parganas a plot of land was found surrounded by a boundary wall with an iron made gate at the entrance of the said plot. A community hall was also noticed adjacent to the boundary wall of the said plot. A temple and a small pond were noticed on the said plot and in front of the temple, a brick and concrete plinth of an unauthorized construction was found.

Mr. Sen, learned Additional Government Pleader appearing for the State respondents including EKWMA submits that in compliance of the order passed by the Court a spot inspection was conducted and a report was prepared and filed before the learned Single Judge on 23rd June, 2025.

We have heard the learned advocates appearing for the respective advocates and considered the materials on record.

It appears that the writ petition was preferred primarily praying for removal of alleged illegal *pucca* structure, constructed over the water body, comprised at Dag No. 9, 69 R.S. Khatian no. 18, as detailed in prayer (a) of the writ petition. It appears that in terms of the direction of the learned Single Judge an inspection was conducted and a report was filed by the EKWMA. However, the appellants did not get an opportunity to file an exception to the report. By the order impugned, the respondents have been directed to take steps to remove the unauthorized construction and to place a report before the learned Single Judge on the returnable date, i.e., 22nd July, 2025. It, thus, appears that a final relief has been granted at an interim stage. Had the fact of pendency of the title suit been brought to the notice of the learned Single Judge, the order might have been otherwise. The issues involved in the writ petition, in our opinion, need to be considered upon exchange of pleadings by the parties.

Accordingly, the appellants shall file an exception to the report of EKWMA and an affidavit-in-opposition to the writ petition within a period of two weeks from date. Reply thereto, if any, shall also be filed within two weeks thereafter. The above period specified for filing of exception and exchange of affidavits shall be mandatory.

The direction upon EKWMA to take steps towards removal of the unauthorized construction shall remain

stayed for a period of six weeks from date. The parties are also restrained from raising any construction whatsoever on the concerned plots of land for a period of six weeks from date.

The parties would be at liberty to pray for final hearing of the writ petition after expiry of the period specified towards exchange of affidavits.

In the event, the hearing of the writ petition is not concluded within the above period of six weeks, the appellants would be at liberty to pray for extension of the stay order before the learned Single Judge. The point of maintainability of the writ petition is kept open to be considered by the learned Single Judge at the time of final hearing.

With the above observations and directions the appeal and the connected application are 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.)