

24.01.2025
Item No.14
Ct. No.26
CHC
(disposed of)

MAT 1711 of 2024
IA NO: CAN/1/2024
CAN/2/2024

Safeda Bewa & Ors.
Vs.
Attinul Haque & Ors.

Mr. Animesh Mukherjee, Advocate
Md. Ali Ahasan, Advocate
...for the appellants

Mr. D. Mukherjee, Advocate
Mr. A. Mukherjee, Advocate
....for the State

Md. Jalaluddin, Advocate
Syed Nasirul Hossain, Advocate
...for the respondent no.1/writ petitioner

1. Leave granted to the learned advocate-on-record for the appellants to remove the defects as pointed out by the Stamp Reporter.
2. CAN/1/2024 is an application seeking condonation of delay.
3. Department reports a delay of 151 days.
4. For the ends of justice, the causes shown in the application for condonation of delay are accepted as sufficient.
5. Delay in making and filing the appeal is condoned.
6. CAN/1/2024 is disposed of accordingly.
7. By the consent of the parties, appeal is taken up for hearing.

8. Appeal is directed against an order dated March 5, 2024, passed in WPA 24220 of 2023.
9. By the impugned order, the learned Single Judge directed the concerned Block Development Officer to cause a spot inspection upon notice to the necessary parties and thereafter take steps in terms and directions passed by the Court on January 31, 2023 in WPA 9183 of 2022.
10. Learned advocate appearing for the appellants submits that, the appellants were the private respondents in the writ petition in which the impugned order was passed. He submits that, there is a civil suit pending between the private parties with regard to declaration of title in respect of an immovable property. He contends that, learned Single Judge erred in passing the impugned order when such civil dispute is pending between the private parties.
11. State and the writ petitioner/private respondent is represented.
12. Learned advocate appearing for the writ petitioner/private respondent submits that, there was an earlier litigation between the parties being WPA 9183 of 2022 in which an order dated January 31, 2023 was passed. He submits that, on such occasion, the Court directed the Gram Panchayat to cause an inspection and to take steps in terms of

Section 23(5) of the West Bengal Panchayat Act, 1973 or in terms of Section 25(2) thereof in case the construction is found to be on public street. He submits that, the pendency of the Title Suit is no bar to the decision on the issue as to the existence of an unauthorized construction at the locale.

13. We considered the rival contentions of the parties, we find from the records made available in Court that, there was an earlier writ petitioner between the parties being WPA 9183 of 2022 where, allegation that the appellants before us raised construction on the Panchayat road, was made. On such writ petition, an order dated January 31, 2023 was passed requiring the Gram Panchayat Road to cause inspection and after affording an opportunity of hearing to the parties, take steps in terms of Section 23(5) or 25(2) of the West Bengal Panchayat Act, 1973, as the case may be.

14. A second round of litigation ensued by way of WPA 24220 of 2023 in which the impugned order was passed. In the last round of litigation, the writ petitioner/private respondent alleged that, the Panchayat did not conduct the inspection as directed by the order dated January 31, 2023 passed in WPA 9183 of 2022.

15. In such factual matrix, learned Single Judge directed the Block Development Officer, Nabagram

Block to cause a spot inspection upon notice to the necessary parties including the Panchayat and thereafter take steps in terms of the direction passed by the High Court on January 31, 2023 in WPA 9183 of 2022.

16. The directions contained in the order dated January 31, 2023 passed in WPA 9183 of 2022 was not assailed by any of the private parties. By the impugned order, learned Single Judge merely directed implementation of the substantive portion of such order, through the Block Development Officer.
17. No material is placed before us to suggest let alone establish that the pending civil suit in any way impeades the implementation of the directions contained in the order dated January 31, 2023 passed in WPA 9183 of 2022 as directed to be implemented by the impugned order.
18. In such circumstances, we find no merit in the present appeal.
19. **MAT 1711 of 2024** along with connected applications are **disposed of** without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)