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MAT 2307 of 2024_

IA No.: CAN 1 of 2024

Sri Arup Majee

– Versus –

The State of West Bengal & Others

Mr. Subir Sanyal,
Mr. Kaushik Chatterjee,
Mr. Ritoban Sarkar,
Mr. Aman Agarwal
... for the Appellant.

Mr. Wasim Ahmed,
Mr. Sk. Md. Masud
... for the State.

Mr. S. Bandopadhyay,
Mr. Tirthankdar Dey,
Mr. A. Nag
... for the BMC/Respondent no.5.

Mr. Surya Prasad Chattopadhyay,
Mr. Arjun Samanta,
Mr. Ankit Chatterjee,
Ms. T. Mancherji
... for the Respondent nos.6 & 7.

Mr. Arunava Banerjee,
Mr. Abhishek Gupta,
Ms. Simantiak Dasgupta
... for the Respondent no.8.

The present appeal has been preferred challenging an order dated 12th December, 2024 passed in a writ petition, being WPA 23077 of 2024.

Drawing our attention to a lease deed annexed at page 53 to the stay application, particularly, clauses (8), (9) and (10) of the same, Mr. Sanyal, learned senior advocate appearing for the appellant submits that the permission of the Government would be required for assignment or transfer of the demised land or for using the said land for any other purpose other than for residential purpose and also for mortgaging the leasehold interest in the said land. It would also be explicit

from the document annexed at page 75 of the stay application that the respondent nos.6 and 7 submitted a representation to the respondent no.2 on 13th July, 2018 seeking permission for transfer of the lease-hold right and interest over the plot no. CB 13, Sector – 1, Salt Lake City, P.S. Bidhannagar (North), Kolkata (hereinafter referred to as the said land) to the appellant. The said representation is still pending and has not been finally decided. Aggrieved by such inaction, the appellant has also preferred a writ petition being WPA 15771 of 2024 *inter alia* praying for issuance of necessary direction upon the competent authority to consider and dispose of the said representation. The said representation dated 13th July, 2018 was submitted by the respondent nos.6 and 7 upon receipt of a huge amount of money through bank transfer. In the said conspectus, the learned single Judge erred in law in observing that pendency of the said representation seeking permission for assignment has not created any right in favour of the appellant.

Drawing our attention to certain photographs annexed to the stay application, Mr. Sanyal submits that the respondent nos.6, 7 and 8 are taking steps for demolition of the structure, which is presently existing over the said land. Unless the said respondents are restrained from demolishing the existing structure, the appellant would suffer irreparable loss and prejudice.

Mr. Banerjee, learned advocate appearing for the respondent no.8 denies the allegation that the said

respondent is demolishing the structure existing on the said land and submits that the respondent nos.6 and 7 have already entered into a development agreement with the respondent no.8.

Mr. Chattopadhyay, learned advocate appearing on behalf of the respondent nos.6 and 7 submits that the averments made to the effect that huge amount of money has been transferred to the bank account of the respondent nos.6 and 7 is absolutely false.

He further submits that the respondent no.8 has forcibly obtained signatures on blank documents from the said respondent nos.6 and 7 and to that effect a complaint had already been lodged by the respondent no.6 before the Inspector-in-charge, Bidhannagar North Police Station. Stating such fact, the respondent nos.6 and 7 have filed an affidavit with copies to the learned advocates appearing for the appellant and the respondent no.8. Let copies of the said affidavit, as filed, be kept on record. Such allegations, as levelled by the respondent nos.6 and 7, have been denied and disputed by Mr. Banerjee.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

Records reveal that the appellant has also preferred a title suit, being T.S. 392 of 2024 against the respondent nos.6, 7 and 8, however, the interim order, as prayed for, in the said proceeding has been refused by the

jurisdictional Civil Court on 15th April, 2024. The miscellaneous appeal preferred against the said order has also been dismissed.

The argument of the appellant that having paid a substantial amount of money to the private respondents, he has acquired a legal right over the said land and that as such he was entitled to seek direction to restrain the respondents from demolishing the structure existing on the said land, in our opinion, has been rightly discounted by the learned single Judge upon arriving at a finding that no right has been created in favour of the writ petitioner/appellant herein in relation to and *qua* the said land.

The argument of Mr. Sanyal that the observations made in the impugned order would also be affecting the appellant's rights and contentions in the pending writ petition and the title suit, is also not acceptable to us.

In view thereof, no interference is called for in the present appeal.

The appeal and the stay application are, accordingly, dismissed.

It is, however, made clear that the observations made in this order would not affect the appellant's rights and contentions in the pending writ petition and the title suit.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)