
(2018) 05 CAL CK 0218
In the Calcutta High Court
Case No : Writ PetitionNo. 25371(W) of 2017

Anushree Giri (Karan)

APPELLANT

Vs

State Of West Bengal & Ors.

RESPONDENT

Date of Decision : 16-05-2018

Acts Referred:

Transfer of Property Act, 1882 — Section 52

Citation : (2018) 05 CAL CK 0218

Hon'ble Judges : DEBANGSU BASAK, J

Bench : Single Bench

Advocate : Soumen Dutta, Kalipada Chakraborty, Lal Ratan Mondal, Manas Kundu, Zakir Hossain

Judgement

The petitioner complains that, the private respondent is seeking to act in breach of an order passed by the Division Bench in MAT 1763 of 2014 with

CAN 9758 of 2014. Learned advocate for the private respondent, on a query from the Court as to which plot was involved in the order passed by the

Division Bench, submits that plot no. 594 was involved. However, he goes on to submit that, plot no. 594 has been sub-divided into small plots and that,

the private respondent is seeking grant of sanction in respect of one of such plot. The relevant portion of the order dated November 10, 2014 of the

Division Bench is as follows:-

â??The appellants are before us contending that in the light of Section 52 of the Transfer of Property Act, the outcome of the litigation would

determine the rights of the parties, therefore there was no justification in the order of the learned Single Judge. The appellantsâ?? counsel further

submits that the property is now transferred in the name of his own daughter, therefore, there was justification to continue the writ proceedings. The

3rd party respondent submits that the daughter of the appellants engaged surveyors to measure the properties and therefore after taking part in such survey, there is no justification in proceeding with the appeal.

So far as the stand of the municipality, according to them in the light of status quo order by Civil Court, parties to the suit ought not to have proceeded

further in the matter without the leave of the Court and therefore now the municipality is not acting upon the application of respondent/defendant or

request of the appellant herein as they would abide by the outcome of the Civil Suit.

If the property were to be transferred to third parties and if he/she has taken participation in the measurement proceeding, it is altogether a different

matter. In other words, initiation of proceedings in the name of appellant by the municipality would not arise even otherwise as the property does not

belong to appellant/writ petitioner any more.

However, in the light of submission of learned standing counsel for municipality that they would not proceed further, we are of the opinion, nothing

remains for consideration, we record the submission of learned counsel for municipality and dispose of the appeal without any order as to costs.â??

In view of the order of the Division Bench and since the plot involved is within the ambit of the order of the Division Bench, it would be appropriate to

direct the Municipal Authorities not to grant any sanction of the building plan filed by the private party without further orders of the Court. The issues

raised in the writ petition are such that, an opportunity should be afforded to the respondents to file affidavits.

Let affidavit-in-opposition be filed within two weeks after reopening of the summer vacation; reply thereto, if any, be filed two weeks thereafter. List

the writ petition in the Monthly List of July, 2018 under the heading â??For Hearingâ?. Urgent certified website copies of this order, if applied for, be

made available to the parties upon compliance of the requisite formalities.