

(2017) 07 CAL CK 0009
In the Calcutta High Court
Case No : 6150 of 2017

Nemai Chandra Kundu & Ors.

APPELLANT

Vs

The Chairman, Arambagh Municipality & Ors.

RESPONDENT

Date of Decision : 06-07-2017

Acts Referred:

Citation : (2017) 07 CAL CK 0009

Hon'ble Judges : Biswanath Somadder, Mir Dara Sheko

Bench : DIVISION BENCH

Advocate : Bibek Jyoti Basu?Uttam Kumar De?Darshana Mazumder?Sadhan Kumar Halder?S.M. Samim Ullah, Suddhadev Adak

Judgement

1. Affidavit of service filed in Court today be taken on record.
2. By consent of the parties, the appeal is treated as on day's list and taken up for consideration along with the application for stay.
3. The instant appeal arises out of the following order dated 29th June, 2017, passed by the learned Single Judge in WP 1426 (W) of 2017 with CAN 5640 of 2017 (Nemai Chandra Kundu & Ors. vs. The Chairman, Arambagh Municipality & Ors .):

"Learned advocate for the petitioners is unable to proceed with the matter. CAN application will go out of the list."
4. In an Intra-Court Mandamus Appeal, no interference is usually warranted unless palpable infirmities or perversities are noticed upon a plain reading of the impugned order. No such palpable infirmities or perversities are noticed from a plain reading of the impugned order. As such, no interference is warranted.
5. That apart and in any event, when an advocate for the petitioners is unable to proceed with his matter and the Court directs the application to go out of the list, by no stretch of imagination such a direction can be construed as a "judgment" of the Court.

6. For reasons stated above, the appeal and the application for stay are liable to be dismissed and stand accordingly dismissed.

7. We, however, grant liberty to the appellants to bring on record before the learned Single Judge certain factual developments, which, according to the learned advocate, took place during the pendency of the instant appeal, as we have not considered the merits of the same and reflects the conduct of the concerned State respondents.

8. Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.