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2025**

Ct. No. 08

Ab

**SAT 138 of 2022
IA No. CAN 2 of 2023**

**Santi Lata Mondal @ Santi Lata Biswas Mondal
and others.
Vs.
Bidyut Biswas and another.**

**Mr. Amit Baran Dash,
Mr. Subhrajyoti Ghosh,
Ms. Ankana Sarkar.**

... for the appellant.

**Mr. Avinaba Patra,
Mr. Dipayan Kundu,
Mr. Agnik Kaulik.**

... for the respondent no. 1.

The appeal shall be heard on the following
substantial questions of law:

- (1) Whether the Civil Court has jurisdiction to entertain a suit concerning the violation of any of the provisions of the West Bengal Panchayat Act, 1973 and the West Bengal Panchayat (Panchayat Samity Administration) Rules, 2008 creating an implied bar to the jurisdiction to entertain and maintain the suit?**
- (2) Whether both the Courts below were justified in passing a decree for demolition of part or portion of the building, which has been constructed illegally, in violation of the aforesaid Rules solely on the basis of the inspection report filed by the Advocate Commissioner, who does not have the expertise in relay and survey of the properties, without ascertaining the exact boundary line between the properties owned by the respective parties.**

Re: CAN 2 of 2024

This is an application seeking stay of the Title Execution Case No. 5 of 2022 pending before the learned Civil Judge (Junior Division) at Kalyani, Nadia.

It is submitted by the Counsel for the appellants that taking advantage of dismissal of the first appeal affirming the judgment and decree of the Trial Court, the plaintiff/respondent has put the decree in execution and in the event such execution proceeding is allowed to continue and in the event the second appeal is allowed, it would invite an irreversible situation.

The Counsel for the respondent no. 1 opposes the submission of the appellants and prays for filing affidavit.

It appears that the dispute centers around on the construction made by the appellants in respect of their own property without following the provisions of the Act and the Regulations applicable in this regard.

Since we have admitted the instant appeal both on the ground whether the Civil Court has jurisdiction to entertain the relief of such nature as well as on the score that the Advocate Commissioner, who, admittedly, does not have an expertise in survey and relay of the properties, in the event the operation of the judgment and decree is not stayed, it would cause irreparable loss and injury.

Accordingly, there shall be stay of all further proceedings in Title Execution Case No. 5 of 2022 pending before the learned Civil Judge (Junior Division) at Kalyani, Nadia, for a period of eight weeks from date or until further order/orders of this Court, whichever is earlier.

The respondents are directed to file affidavit-in-opposition to the instant application within two weeks from date; reply thereto, if any, shall be filed by the appellants within a week thereafter. The application is

made returnable after three weeks before the appropriate Bench.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)