

IN THE HIGH COURT AT CALCUTTA

[CIRCUIT BENCH AT PORT BLAIR]

...

WPA/475/2024

Shri M. Manimaran

... Petitioner

Vs.

The Andaman & Nicobar Administration and Ors.

... Respondents

Mr. K.M.B. Jayapal

...for the Petitioner

Ms. Babita Das

...for the Respondent no.1

Mr. Shatadru Chakraborty

Mr. Dibesh Dwivedi

...for the Respondent nos.2 & 3

Ms. A.S. Zinu

...for the Intervener

September 09, 2024

(M.A.Mobin)

Item No.3

Learned Advocate for the Petitioner and learned Advocate for the Respondent no.1, Andaman & Nicobar Administration and learned Advocate for the Respondent nos. 2 and 3, Port Blair Municipal Council and the Executive Engineer, Port Blair Municipal Council are present.

Heard learned Advocates.

This Writ application is directed against the order of demolition passed by the Respondent no.2.

Learned Advocate Ms. A.S. Zinu appears and submits that as the order of demolition is passed by the Respondent no.2 in compliance of the order passed by this Court in

WPA 877 of 2023 (Rozina Kujur Vs. The Chairman PBMC and Others) her client Rozina Kujur is necessary party in the Writ application.

The submission of the learned Advocate has some substance and thus Rozina Kujur is impleaded as a party respondent in the Writ application.

Learned Advocate for the Respondent no.1 and learned Advocate for the Respondent nos.2 and 3 submit that the Writ Petitioner being aggrieved by the order of demolition has already preferred an appeal before the Deputy Commissioner, South Andaman against the order of demolition which is pending. Thus the Writ petitioner cannot avail the remedy before the two forums.

Upon hearing the learned Advocates and considering the facts of this case, this Court is of the view that this matter cannot be decided without calling for affidavits.

As today is the last day of the Circuit, this Court is of the view that opportunity to file affidavits may be granted to the parties and the matter can be directed to be placed in the next Circuit.

Thus Affidavit-in-Opposition may be filed within two weeks. Reply if any be filed one week thereafter.

Let the matter appear on 30.9.2024 before the next Circuit Bench.

Considering the urgency of this case and the fact that a statutory appeal is pending before the Deputy Commissioner and the date fixed before the Appellate

authority is 10.9.2024, the point of maintainability of the Writ application is kept open. However, Respondent nos.2 and 3 are permitted to proceed in accordance with law but no coercive steps shall be taken till 05.10.2024 as the appeal is pending before the Deputy Commissioner. This Court does not restrain the Deputy Commissioner to proceed with the appeal and the Writ Petitioner has also the opportunity to appear before the Deputy Commissioner.

Parties are to act on a server copy of this order duly collected from the official website of the Hon'ble High Court at Calcutta.

(Biswaroop Chowdhury, J.)