

15.09.22
SI-06
Ct.32
(S.R.)

MAT 301 of 2018
with
IA No. CAN 2 of 2020 (Old No. CAN 2996 of 2020)
Khokon Roy
v.
The Asansol-Durgapur Development Authority & Ors.

Mr. Sobhan Majumder ... for the appellant.

Mr. S. Chatterjee
Mr. Nepesh Majhi ... for the respondent no.1.

In re: CAN 2 of 2020 (Old No. CAN 2996 of 2020)

Upon hearing Mr. Majumder, learned advocate appearing for the appellant and Mr. Majhi, learned advocate appearing for the respondent no.1 and upon considering the averments made in the restoration application being CAN 2 of 2020 (Old No. CAN 2996 of 2020), we are satisfied with the explanation given towards the absence of the learned advocate for the appellant before the Court when the appeal being MAT 301 of 2018 and the connected application being CAN 3674 of 2018 were dismissed for default. Accordingly, the order dated 24th February, 2020 is recalled and the appeal and the connected application are restored to their respective original file and number.

The application being CAN 2 of 2020 (Old No. CAN 2996 of 2020) is disposed of.

The subject matter of challenge in the present

appeal is an order dated 7th February, 2018 passed in W.P. No.2097 (W) of 2018.

Mr. Majumder, learned advocate appearing for the appellant submits that the appellant was allotted a shop room by the respondent no.1 and an agreement towards such allotment was executed on 12th July, 2007. The said agreement was for five years and as such, the appellant duly applied for renewal. However, in the midst thereof, a complaint was lodged by the private respondent no.8. Thereafter by a notice dated 17th April, 2017 issued by the respondent no.3, the appellant was called for a hearing and by an order dated 2nd June, 2017 issued by the respondent no.5, the appellant's allotment was terminated with effect from 6th June, 2017. The appellant's representation to the respondent no.2 thereafter was also not considered and the possession of the shop room was forcibly taken over by the respondents. The appellant approached the respondent no.2 by a representation dated 1st September, 2017 but the same was not considered and accordingly the said respondent failed to discharge his obligation.

Mr. Majumder argues that without considering the arguments, as advanced on behalf of the appellant, the writ petition was abruptly dismissed by the impugned order dated 7th February, 2018. The said order is also not supported with appropriate reasons. The learned Single

Judge erroneously observed that no fruitful purpose would be served by requiring the Chairman to consider the appellant's representation.

Per contra, Mr. Majhi, learned advocate appearing for the respondent no.1 submits that the appellant had violated the terms of the agreement and had sublet the shop room allotted to him to one Kanailal Kar. Such fact was admitted by the appellant at the time of hearing and as such, his license was rightly terminated by the competent authority.

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

The allotment of the shop room in favour of the appellant was for a period of five years. In the midst thereof, the shop room was handed over to one Kanailal Kar. Such fact appears to have been admitted by the appellant in course of hearing before the respondent no.5. The appellant was granted an opportunity of hearing prior to issuance of the order dated 2nd June, 2017 passed by the respondent no.5.

In the said conspectus, the learned Single Judge refused to exercise discretion in favour of the appellant and dismissed the writ petition. The order is a reasoned one and we do not find any infirmity in the same and as such, no interference is called for in the present appeal.

Accordingly, the appeal being MAT 301 of 2018 and

the connected application being CAN 2 of 2020 (Old No. CAN 2996 of 2020) are dismissed.

There shall, however, be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

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