

15. 08.02.2022
Ct. No.06
Tanmoy

**M.A.T. 18 of 2022
With
IA No: C.A.N. 1 of 2022**

**Dilip Maity
-Versus-
Contai Municipality & Ors.
(Through Video Conference)**

Mr. Ramashis Mukherjee, Adv.,
Mr. Rameshwar Sinha, Adv.

...for the appellant.

Mr. Koushik Chatterjee, Adv.,
Mr. Nilanjan Adhikari, Adv.

...for the Contai Municipality
(respondent nos. 1 & 2).

Mr. B.L. Sahoo, Adv.,
Mr. Surajit Samanta, Adv.,
Mr. S.P. Roy, Adv.

...for the respondent nos. 8 & 9.

By consent of the parties, the appeal and the connected application are taken up together for hearing.

The private respondent no.5 in the writ petition is the appellant before us. The writ petitioners had approached the learned Single Judge complaining that the private respondents had made illegal and unauthorized construction without leaving mandatory open space on the side of the building. They said that they have made a representation before the Contai Municipality but the same had not been considered by

the said Municipality in spite of notice having been served on the private respondents, nobody appeared for the private respondents before the learned Single Judge. However, the learned Judge observed that in view of the nature of the order that the learned Judge was proposing to pass, it was not necessary to adjourn the hearing of the writ petition. Such order would not prejudice anybody. The learned Judge directed the respondent no.2 in the writ petition, being the Administrator of the Contai Municipality, to dispose of the representation made by the writ petitioners after giving an opportunity of hearing to all the necessary parties. The learned Judge further directed that in the event the Administrator of the Municipality was of the opinion that the impugned construction had been made either in violation of the plan sanctioned, or without any sanctioned plan, necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

Being aggrieved, the private respondent no.5 is before us by way of this appeal.

Learned Advocate for the appellant, on instruction, submitted that the Municipality never served any notice of hearing on the appellant. A demolition order has been passed by the concerned Municipality on December 27, 2021 behind the back of the appellant.

Learned Advocates for the Municipality, as well as the writ petitioners, produced documents, which clearly show that the appellant was present at the hearing held before the Administrator. Principles of natural justice have been observed. Nothing has been done behind the back of the appellant.

We find no infirmity in the order under appeal. The appeal being M.A.T. 18 of 2022 and the connected application being IA No: C.A.N. 1 of 2022 are accordingly dismissed.

Dismissal of the appeal will obviously not stand in the way of the appellant challenging the demolition order, in accordance with law before the appropriate forum, if he is so advised.

Let urgent photostat certified copies of this order, if applied for, be supplied to learned Advocates for the parties upon compliance with all usual formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)