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09-11-2022
debajyoti
(Ct. no.06)

FMA 1539 of 2013
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IA NO:CAN/1/2011 (Old No:CAN/4439/2011)

Jitendra Nath Dutta
Vs.
State of West Bengal & Ors.

Mr. Md. Yusuf Ali

... For the Appellant.

Mr. Raja Saha,

Mr. Suvro Prakash Lahiri

... For the State.

Mr. Pratip Kumar Chatterjee

... For Respondent Nos.2 & 3.

Read orders dated September 14, 2022 and
September 26, 2022.

Learned advocate for the Municipality has come back with instructions. The Municipality has taken a fair stand which we appreciate. However, the Municipality reiterates that it has no fund. Nonetheless the Municipality says that it must pay the admitted dues of the appellant/writ petitioner. However, the Municipality requests for instalments.

Learned advocate for the appellant has also been reasonable and has agreed on behalf of his client to receive the payment in instalments.

The sum of Rs.5,79,612/- shall be paid by the Municipality to the appellant/writ petitioner in five monthly instalments. The first four instalments will be for Rs.1,00,000/-, the first of which will be payable by December 07, 2022. The subsequent instalments shall be paid by the seventh of each succeeding month. The fifth and the last instalment shall be for a sum of Rs.1,79,612/-.

Since the lawful dues of the appellant/writ petitioner have been withheld since 2002, it will be unfair if some amount of interest is not granted to the appellant. However, we also keep in mind that the Municipality may be short of funds. Balancing the equities, we direct the Municipality to pay a lump sum amount of Rs.50,000/- to the appellant on account of interest, which shall be payable as the sixth instalment by the seventh day of the relevant month.

In the event of default on the part of the Municipality to pay any of the instalments, the amount then remaining outstanding, shall carry interest at the rate of 8% per annum.

The judgment and order under appeal is set aside. The appeal and the connected application are, accordingly, disposed of on the above terms.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Apurba Sinha Ray, J.) (Arijit Banerjee, J.)