

02.02.2023  
Court No. 19  
Item No.05  
CP

CAN No. 1 of 2022  
in  
W.P.A. No. 2940 of 2022

In the matter of: Snigdha Saha (applicant)

Mr. Sarwar Jahan  
Mr. Soumen Chatterjee  
Mr. Shahzad Noor Thander  
Mr. Asif Mehdi

.....for the applicant.

Mr. Sayan Sinha

....for the Bongaon Municipality.

Re: CAN NO. 1 of 2022

The court does not find any ambiguity in its order dated March 31, 2022.

According to Mr. Jahan, learned advocate for the applicant, the following sentence which is quoted below requires further clarification:

“Of course, such reinstatement of the tenant shall be subject to the decision of the civil suit, which is pending between the parties.”

The true purport and meaning of the said sentence quoted hereinabove, is that the reinstatement that will be made in respect of the tenant in the newly constructed building, shall be subject to any further orders that may be passed in the civil suits pending, i.e., if after possession is given in the newly constructed building and the

decree of eviction is passed in favour of the landlord, the applicant will have to vacate in accordance with the decree and if the suit of the applicant is decreed and the court finds that she was a tenant with respect to more than two rooms then the decree of the civil court will naturally have its binding effect on the parties. In case the decree of eviction is passed before the newly constructed building, is completed, the question of giving possession in the newly constructed building will not arise. However if the applicant is successful in the suit before the building is completed, the applicant will be put in possession in terms of the said decree.

At the moment, the petitioner shall vacate the premises within February 28, 2023 so that the municipal authority is in a position to carry out the demolition work in terms of its orders.

Needless to mention, the order of the municipality has already been upheld by a Coordinate Bench and the appeal court did not entertain the applicant's challenge to the same.

After demolition, when the plan for new structure is submitted before the municipality, the municipality will require the landlord to identify the two rooms proportionate to the area now used by the petitioner as admitted by the landlord in the suit.

Only upon such demarcation and identification the plan will be sanctioned.

CAN NO. 1 of 2022 is disposed of.

**(Shampa Sarkar, J.)**