

**MAT 275 of 2022
With
CAN 1 of 2022**

**Kalyan Ghosh & Anr.
Vs.
Amlan Kumar Ghosh & Ors.**

Mr. Ranajit Chatterjee
Mr. Victor Chatterjee
Mr. Aniruddha Mitra
Mr. Barnamoy Basak

... ... for the appellants

Mr. Bibek Jyoti Basu
Ms. Rajkakshmi Ghatak

... ... for the State

Mr. Satyajit Talukdar
Mr. Abhishek Sarkar

... ... for the KMDA

The affidavit of service filed by the appellants is taken on record.

This appeal is directed as against the order of the learned Single Judge dated 29th November 2021 whereby WPA 13295 of 2021 has been disposed of with a direction to the respondent/KMDA to execute the lease deed in favour of the writ petitioner and further that the lease deed so executed will be subject to the decision of the – pending civil suit.

The respondent no.1 (writ petitioner) had approached the Writ Court with a plea that he was allotted the apartment in question through lottery by KMDA sometime in the year 1996 and had paid the due amount and the possession of the apartment was also handed over but the sale deed was not registered in favour of the writ petitioner.

A further plea was also raised that some civil dispute relating to title was pending. Hence, in the writ petition a prayer was made to issue a direction to the concerned respondents to execute and register the conveyance deed in favour of the petitioner in respect of the apartment in question.

Learned Single Judge in the proceeding dated 14th September 2021 had taken note of the stand of the KMDA that it was willing to execute 99 years lease in favour of the writ petitioner in the standard format as prescribed by the rule. Since, at that stage the other family members were not party in the writ petition, therefore, they were directed to be impleaded therein.

Thereafter, the learned Single Judge has taken note of the circumstances of the case and recorded in the earlier proceedings and has passed the impugned order issuing a direction to execute the lease deed.

At this stage, the limited prayer has been made by the appellants who are the other family members of the writ petitioner that on the strength of the order of the learned Single Judge they may not be dispossessed.

Learned counsel appearing for the KMDA has informed that the lease deed has already been executed in favour of the writ petitioner on 11th March 2022.

This Court has also been informed that the Title Suit being T.S. no. 240 of 2016 is pending before the Civil Judge (Senior Division), 5th Court, Alipore at the instance of the present appellants. Therefore, the

appellants have remedy of seeking an appropriate temporary injunction from the Civil Court where the dispute is already pending and which is a Court competent to look into all the relevant circumstances and materials.

If such an application is filed, we are hopeful that the Civil Court will duly look into all the relevant aspects of the matter and pass an appropriate order in accordance with law.

Thus no interference in the order of the learned Single Judge is required.

The appeal is, accordingly, disposed of.

(Prakash Shrivastava, C.J.)

(Krishna Rao, J.)