

10.03.2022
Item no.7.
Court No.6.
AB

**M.A.T. 297 of 2022
With
IA CAN 2 of 2022**

Pallab Kumar Ata @ Pallab Atta & Anr.

Vs

Sri Sandip Ghosh & Others

Mr. Srijib Chakraborty,
Mr. Avirup Chatterjeefor the Appellants.

Mr. Sandipan Banerjee,
Mr. Ankit Surekafor the H.M.C.

Mr. Sounak Bhattacharya,
Mr. Sumitava Chakraborty
....for the Respondent No.1.

Mr. Dyutiman Banerjee,
Mr. Satyam Mukherjee,
Ms. Sayani Ahmed
.....for the Respondent No.8.

Mr. Biswajib Ghosh,
Mr. Bijoy Bag
.....for the Respondent No.9 to 11.

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

The appellants were not parties to the writ petition. They claim to be the owners of the premises in question, which has been developed and a building has been constructed.

The learned Judge by the impugned order dated February 23, 2022 set aside an order of demolition of the top floor of the building and directed fresh

inspection to be conducted by the officials of the Engineering Department. It was observed that such inspection shall be held in the presence of the writ petitioner, the respondent nos.7 to 10 and other interested parties on March 7, 2022, at 12 noon.

The demotion order was set aside primarily on the ground that the writ petitioner had not been heard before such order was passed.

The appellants, who claim to be the owners of the land where the building in question has come up, say that as per the agreement between the appellants and the developer, the appellants are to get a portion of the top floor of the building. All that the appellants want is to be present at the inspection to be conducted by the officials of the Engineering Department of the Howrah Municipal Corporation.

We find that an inspection has already been held on March 7, 2022. Let another inspection be held by the concerned officials of the Engineering Department of the Howrah Municipal Corporation on March 14, 2022 at 2 p.m. at premises no.244/1, Sarat Chatterjee Road, Howrah. The appellants will be entitled to be present at such inspection and shall participate in the proceedings. We say no further as this is the only clarification that the appellants wanted before us. We have not interfered with the order of the learned Single Judge, which will be carried out as directed.

Since we have not called for affidavits, the allegations in the stay petition are deemed not to be admitted by the respondents.

MAT No.297 of 2022 stands disposed of along with IA CAN 2 of 2022.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)