

30.08.2022  
Item No.1  
Court No.6.  
S. De

**M.A.T. 165 of 2016  
I.A. No. CAN 1 of 2018  
(Old No. CAN 1734 of 2018)**

**Radhey Shyam Show  
Vs  
The Chairman, Howrah Improvement Trust & Ors.**

Mr. Bhudeb Bhattacharyya,  
Ms. Indrani Pal,  
...for the appellant.  
Mr. Santanu Kr. Mitra,  
Ms. Rama Halder,  
...for the State.

This appeal is preferred against an order dated November 23, 2015, whereby the appellant's writ petition being W.P. No.4324(W) of 1996 was dismissed as infructuous.

We notice from the impugned order that the appellant/writ petitioner was not represented on the day the learned Single Judge disposed of the writ petition. The learned Judge recorded the submission made on behalf of the respondent authority that land of the appellant/writ petitioner and others had been acquired in connection with construction of the Salkia Fly Over and all land owners including the appellant/writ petitioner were given alternative accommodation for their habitation and business. Recording as aforesaid, the learned Judge held that

the writ petition has become infructuous and, accordingly, dismissed the same.

Being aggrieved, the appellant/writ petitioner has come up before us by way of the present appeal.

Learned advocate for the appellant/writ petitioner says that although he was given two flats, subsequently, he was driven out from one of the flats.

We are not inclined to go into the merits of the case. The learned Single Judge did not have the occasion to consider the merits of the appellant/writ petitioner's case since the appellant/writ petitioner was not represented before the learned Judge on the day of dismissal of the writ petition.

The appellant/writ petitioner will be at liberty to approach the learned Single Judge with an appropriate application explaining his absence on the day the writ petition was dismissed. If such an application is made, the learned Judge is requested to decide the same in accordance with law.

For the reason aforestated, we are not inclined to interfere with the order impugned.

The appeal being MAT 165 of 2016 is dismissed along with the application being I.A. No.CAN/1/2018 (Old No.CAN/1734/2018).

There will be no order as to costs.

We clarify that we have not entered into the merits of the appellant/writ petitioner's case.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

**(Shampa Dutt (Paul), J.)**

**(Arijit Banerjee, J.)**