

08.02.2022
Item no.1
Court No.6.
AB

M.A.T. 300 of 2019
With
I A CAN 1 of 2019
(Old CAN 7337 of 2019)
I A CAN 2 of 2019
(Old CAN 7338 of 2019)

Sohan Lal Jadgi

Vs

Howrah Municipal Corporation & Others

Mr. M. P. Gupta,
Mr. D. K. Sailo,
Mr. Chandan Mondal,
Mr. Ayan Mitra,
Ms. Antara Panjafor the Appellant.

Mr. Mahammad Mahmud,
Mr. Pinaki Dasfor the Respondent No.6.

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

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

In re: I A CAN 1 of 2019 (Old CAN 7337 of 2019)

This is an application for condonation of delay of 180 days in filing the appeal. Causes shown being sufficient, the delay is condoned.

I A CAN 1 of 2019 (Old CAN 7337 of 2019) is, accordingly, disposed of.

In re : M.A.T. 300 of 2019

The writ petitioner had approached the learned Single Judge complaining of unauthorised

constructions at premises no.74/7, Matrumal Lohia Lane, Howrah – 711101.

By an order dated June 18, 2018, the learned Judge directed the respondent no.3 in the writ petition, being the Executive Engineer, Building Department, Howrah Municipal Corporation, to inspect the concerned locale upon notice to the private parties and to submit a report to the Court as to whether or not, there was any unauthorised construction on the aforesaid premises.

A report was filed before the learned Single Judge. In the impugned order dated July 11, 2018, the learned Judge recorded as follows:

“The report states that, there are unauthorised construction.

In such circumstances, it would be appropriate to direct the Howrah Municipal Corporation to initiate proceedings under Section 177 of the Howrah Municipal Corporation Act, 1980 preferably within a period of fortnight from date and conclude such proceedings as expeditiously as possible and preferably within a period of eight weeks from the date of communication of this order to them.

W.P. 6928(W) of 2018 is disposed of without any order as to costs.”

Being aggrieved, the private respondent no.6 in the writ petition is before us by way of this appeal.

On behalf of the appellant, it is submitted that the grievance of the writ petitioner was in respect of premises no.74/7 whereas the report was submitted

by the Corporation in respect of premises no.74/5. The appellant has nothing to do with premises no.74/5. The appellant is the owner of premises no.74/7 and there is no construction at all on the said premises.

We have heard learned Counsel for the Howrah Municipal Corporation also. He very fairly says that the report was submitted in respect of a wrong premises. The report should have been filed in respect of premises no.74/7. The report shows that the same pertains to premises no.74/5.

Under those circumstances, since the impugned order was passed on the basis of a report relating to a wrong premises, we are constrained to set aside the order under appeal and remand the matter back to the learned Single Judge for deciding the writ petition afresh.

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

The appeal being MAT 300 of 2019 along with CAN 7338 of 2019 are, accordingly, disposed of.

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.)