

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
(Appellate Side)

CAN 2 of 2022
in
MAT 682 of 2022

Reserved on: 22.09.2022
Pronounced on: 28.09.2022

Swati Das

...Appellant

-Vs-

The State of West Bengal and Others

...Respondents

Present:-

Mr. Abhratosh Majumdar,
Mr. Aniruddha Chatterjee,
Mr. Srijib Chakraborty,
Mr. Pankaj Agarwal,
Ms. Pallavi Ray, Advocates

... for the applicant/respondent No. 4

Mr. Joy Saha,
Mr. Sourojit Dasgupta,
Mr. Biswajit Kumar,
Mr. Soumya Nag, Advocates

... for the appellant

Coram: THE HON'BLE JUSTICE PRAKASH SHRIVASTAVA,
CHIEF JUSTICE

THE HON'BLE JUSTICE RAJARSHI BHARADWAJ,
JUDGE

Prakash Shrivastava, CJ:

1. This Court by order dated 12th of July, 2022 had allowed MAT 683 of 2022 and MAT 682 of 2022 and had set aside the orders of the learned Single Judge dated 9th of December, 2021 and 12th of April, 2022 passed in WPA 19431 of 2021 and had directed the respondents therein to restore the possession of the appellant on the portion of the second floor from which she was evicted in compliance of the order of the learned Single Judge.

2. CAN 2 of 2022 has been filed by the respondent in the appeal seeking modification/stay of the order of this Court dated 12th of July, 2022 passed in MAT 683 of 2022 and MAT 682 of 2022.

3. Submission of the learned Counsel for the applicant is that the applicant is ready to provide an equivalent alternate accommodation to the appellant of her choice, rather than restoring her possession in the south west room of the second floor. A plea has also been raised that restoration of possession of the appellant will cause inconvenience to the present applicant. Learned Counsel for the applicant submits that the applicant has already selected few accommodations on rent for the appellant and the applicant is ready to bear the rent and other cost of the accommodation which can be provided to the appellant.

4. Learned Counsel for the appellant has submitted that the SLP preferred against the order of this Court has been dismissed as withdrawn as the Hon'ble Supreme Court was not ready to entertain it. He has further submitted that no case for any modification of the order is made out.

5. Having heard the learned Counsel for the parties and on perusal of the record, it is noticed that similar plea which is now being raised in the present applicant was also raised at the time of hearing of MAT 683 of 2022 and MAT 682 of 2022 and this Court while passing the order dated 12th of July, 2022 had rejected it by observing as under:

“16. So far as the offer of the learned Counsel of the respondent no. 4 to pay the rent of the flat occupied by the appellant is concerned, the said offer would not correct illegality and the manner in which the appellant has been evicted. Moreover, such an offer is not acceptable to appellant.”

6. Against the order of this Court dated 12th of July, 2022 in MAT 683 of 2022 and MAT 682 of 2022, SLP (C) No. 12746-12747/2022 was preferred and the same was withdrawn by order dated 25.07.2022 expressing that the appellant wanted to move the Miscellaneous Application before the Division Bench of this Court. The SLP was dismissed as withdrawn. No separate liberty was granted by the Hon'ble Supreme Court to apply for modification.

7. That apart, the offer which is made today has again been declined by the appellant. Hence, considering the observation made in paragraph 16 in the original order by this Court, we find that no ground is made out to take a different view in the present application.

8. Learned Counsel for the applicant has also placed reliance upon the order dated 29.07.2022 passed by the Hon'ble Supreme Court in SLP (C) No. 12427/2022 in the case of Ravneet Kaur vs. Prithpal Singh Dhingra, but he has not disputed that the said matter did not arise from the order of the High Court passed under Article 226 issuing direction for eviction, as has been done in the present case.

9. Thus, we find no ground to accept the prayer for modification or stay of the order of this Court dated 12.07.2022 passed in MAT 683 of 2022 and MAT 682 of 2022. CAN 2 of 2022 is accordingly rejected.

(PRAKASH SHRIVASTAVA)
CHIEF JUSTICE

(RAJARSHI BHARADWAJ)
JUDGE

Kolkata
28.09.2022

PA(SS)

(A.F.R. / N.A.F.R.)