

**17.05.2022**  
**Item Nos.28 & 29**  
Court No.32  
Avijit Mitra

**MAT 495 of 2018**  
**with**  
**IA No. CAN 1 of 2018 (Old No.CAN 3184 of 2018)**  
**Metro Emporium LLP & anr.**  
**Versus**  
**The Board of Trustees, Kolkata Port Trust & ors.**  
**with**  
**MAT 522 of 2018**  
**with**  
**IA No. CAN 1 of 2018 (Old No.CAN 3662 of 2018)**  
**The Board of Trustees, Kolkata Port Trust & ors.**  
**Versus**  
**Metro Emporium LLP & anr.**

Mr. Snehashis Sen,  
Mr. Abhishek Banerjee  
....for the appellants in MAT 495 of  
2018 and for the respondents in MAT  
522 of 2018

Mr. Probal Mukherjee, Sr. Adv.,  
Mr. Ashok Kumar Jena  
....for the appellants in MAT 522 of  
2018 and for the respondents in MAT  
495 of 2018

Affidavit of service filed by the appellants in MAT  
522 of 2018 be kept on record.

Records reveal that challenging the order dated  
23<sup>rd</sup> May, 2018 passed in the writ petition, being WP  
6776 (W) of 2018, the writ petitioners preferred an  
appeal, being MAT 495 of 2018 and the respondent nos.  
1 and 2 in the said writ petition also preferred an appeal,  
being MAT 522 of 2018.

It appears that both the appeals and the  
connected applications were taken up for hearing by a

Coordinate Bench of this Court and an order was passed on 18<sup>th</sup> June, 2019 directing *inter alia* that the appeals shall be taken up together with the writ petition for final disposal.

Mr. Banerjee, learned advocate appearing for the appellants in MAT 495 of 2018 submits, upon instruction, that the said appellants do not want to proceed with the writ petition as well as the appeal being MAT 495 of 2018 and the connected application being IA No. CAN 1 of 2018 (Old No. CAN 3184 of 2018).

Accordingly, the writ petition being WP 6776 (W) of 2018 and the appeal being MAT 495 of 2018 along with the connected application, being IA No. CAN 1 of 2018 (Old No. CAN 3184 of 2018) are dismissed for non-prosecution and as such the order dated 23<sup>rd</sup> May, 2018 passed in the writ petition does not survive.

In view thereof, the appeal preferred by the respondent nos. 1 and 2 in WP No. 6776 (W) of 2018 challenging the order dated 23<sup>rd</sup> May, 2018, being MAT 522 of 2018 and the connected application being IA No. CAN 1 of 2018 (Old No. CAN 3662 of 2018) are also dismissed as infructuous.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

**(Sugato Majumdar, J.) (Tapabrata Chakraborty, J.)**