

**FMA 505 of 2021
with
IA No. CAN 2 of 2020 (Old No. CAN 2582 of 2020)**

**Abul Kashem Fazle Haque
Vs.
The State of West Bengal & Ors.**

**Mr. Sambhunath Ray
Mr. Rameswar Sinha
Ms. Amita Tewari
..... For the petitioner**

**Ms. Tanusri Chandra
..... For the State**

**Mr. Tapas Kumar Ghosh
Mr. Tanmay Chowdhury
..... For the respondent no. 4**

The present appeal has been preferred against an order dated 18th June, 2019 passed in W.P. No. 8298 (W) of 2019.

The affidavit-of-service, as filed, be kept on record.

Upon hearing the learned advocates appearing for the respective parties and considering the materials on record, we are satisfied with the explanation given towards the absence of the learned advocate of the appellant before the Court when the stay application being CAN 6887 of 2019 was dismissed for default on 27th February, 2020.

In view thereof, the order dated 27th February, 2020 is recalled and the stay application being CAN 6887 of 2019 is restored to its original file and number. The

restoration application being CAN 2582 of 2020 is, accordingly, disposed of.

Mr. Ray, learned advocate appearing for the appellant submits that without appreciating the actual dispute between the parties, the learned Single Judge arrived at an erroneous conclusion and such infirmity warrants interference in the present appeal.

He further submits that though the police authorities failed and neglected to discharge their statutory obligations, the learned Single Judge refused to issue necessary direction upon them.

The learned advocates appearing for the State and the Municipality submit that there is no infirmity in the order impugned and as such, no interference is called for.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

It appears that a development agreement was entered into by the appellant with the owners of the concerned property and that one of the owners had refused to vacate the property in occupation. In the said backdrop, the learned Single Judge rightly concluded that the dispute is civil in nature and observed that the parties may avail of their remedies before the appropriate forum, in accordance with law.

In view thereof, we do not find any infirmity in the order impugned and as such, no interference is called for in the present appeal.

Accordingly, the appeal being FMA 505 of 2021 and the stay application being CAN 6887 of 2019 are dismissed.

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

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Sugato Majumdar, J.)

(Tapabrata Chakraborty, J.)