

D/L
Item No. 1
08.08.2022
KOLE

MAT 1176 of 2022
With
IA No. CAN 1 of 2022
With
IA No. CAN 2 of 2022
Samiran Jana
-Vs.-
Arati Das & Ors.

Mr. Kamalesh Bhattacharyya,
Mr. B. Lal Sahoo,
Mr. S. Prasad Roy,

...for the appellant.

Mr. Amit Baran Dash,
Mr. A. Sarkar,

...for the respondent no. 1.

Mr. Debjit Mukherjee,
Mrs. R. Chakraborty,

...for the State.

In Re: CAN 2 of 2022

This is an application for condonation of delay of 58 days in filing the appeal. Causes shown being sufficient, the delay is condoned.

CAN No. 2 of 2022 is accordingly disposed of.

In Re: MAT 1176 of 2022 with IA CAN 1 of 2022

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

Supplementary affidavit filed in court today be kept on record.

The appellant was the private respondent in the writ petition. It appears that a representation was made by the writ petitioner through her lawyer to the Contai Municipality alleging that the private respondent is making unauthorized

construction. The learned Judge directed to the Board of Councillors of the Municipality to dispose of such representation dated January 2, 2020 after giving an opportunity of hearing to the petitioner as well as other necessary parties.

The appellant is aggrieved by the fact that the order was passed *ex parte*. The appellant says that initial notice was given to him in January, 2020 to the effect that the matter will be moved on February 3, 2020. However, the matter was not moved on that date. Soon thereafter the pandemic set in and normal life was totally disrupted. Without giving further notice, the matter was moved before the learned Single Judge suddenly and on the virtual mode on January 12, 2021. The writ petitioner should have informed the private respondent that the matter would be moved on the virtual mode.

The appellant further says that after obtaining the order *ex parte*, the writ petitioner did not communicate such order to the appellant. The appellant came to know about the order from notice served on him by the Municipality calling upon him to participate in the proceedings before the Board of Councillors. The appellant says that civil disputes are pending between the writ petitioner and the appellant and an order of *status quo* has been passed by the Civil Court in respect of the properties of both the parties.

We have heard learned Counsel for the parties. We are not inclined to interfere with the order under appeal. In any event, we are told that the proceedings before the Board

of Councillors of the Municipality have been concluded and a reasoned order has been passed. A copy of the reasoned order is taken on record. We are told that the appellant participated in the proceedings. Needless to say that if the appellant is aggrieved by the reasoned order passed by the Board of Councillors on July 28, 2022, the appellant will be at liberty to challenge the same in accordance with law before the appropriate forum.

The appeal and the connected application are accordingly disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Rai Chattopadhyay, J.) (Arijit Banerjee, J.)