

20.01.2022
Item No.15.
Court No.6.
AB

Through Video Conference

M.A.T. 1244 of 2021

With

I A CAN 1 of 2021

Chandan Majumdar & Anr.

Vs

Sri Amar Kumar Sonkar & Others

Mr. Arindam Banerjee,
Mr. Sayan Sinha,
Mr. Mainak Swarnokar ...for the Appellants.

Mr. Sandipan Banerjee,
Mr. Ankit Sureka ...for the H. M. C.

Mr. Jaharlal De, Sr. Govt. Adv,
Mr. Shamim Ul Barifor the State.

Mr. Mrityunjoy Chatterjee,
Md. G. N. Imrohifor the Respondent No.1.

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

The writ petitioner approached the learned Single Judge with the grievance that the present appellants were making unauthorised construction without having sanctioned plan from the Howrah Municipal Corporation.

The learned Judge heard all the concerned parties including the present appellants and relegated the matter to the Commissioner of the Howrah Municipal Corporation to consider and dispose of the

representation made by the writ petitioner, in accordance with law, after giving an opportunity of hearing to all the necessary parties, positively within a period of six months from the date of communication of the order. The Commissioner was directed to pass a reasoned order and communicate the same to all the concerned parties. The Commissioner was also directed that if he is of the opinion that the construction has been made in violation of the sanctioned plan or without sanctioned plan, then necessary steps shall be taken to deal with the unauthorised structures, in accordance with law.

The appellants are aggrieved by the order of the learned Single Judge. They say that they are the promoters of the building and they are doing nothing, which is contrary to law.

We find that the interest of all the concerned parties have been protected by the learned Single Judge. The Commissioner was directed to give hearing to all the concerned parties before coming to a decision. Learned Advocate for the Howrah Municipal Corporation says that the Commissioner has already taken a decision in the matter and the same has been communicated to all the parties concerned.

Learned Advocate for the appellants says that the appellants have not got a copy of the order. They say that they have also not been heard. The

Commissioner of the Howrah Municipal Corporation is directed to communicate the order passed by him to the appellants within three days from date.

The appellants also urged before us that there was suppression of several material facts from the learned Single Judge. If the appellants are aggrieved on that score, they may approach the learned Single Judge with their grievance if they are entitled to do so in law. Apparently, we find no infirmity in the order under appeal. Consequently, the appeal being MAT No.1244 of 2021 and the connected application being IA CAN 1 of 2021 are dismissed.

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

In the event the appellants approach the learned Single Judge with an appropriate application, the same may be disposed of by the learned Judge on its own merits without being influenced by any observation in this order.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after complying with all the necessary legal formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)