

25.08.2022
Item No. 2.
Court No.6.
AB

M.A.T. 1342 of 2022
With
I A CAN 1 of 2022
I A CAN 2 of 2022

Kajal Majumdar
Vs
Samina Bibi & Others

Mr. Arindam Banerjee,
Ms. Arpita Saha ...for the Appellant.

Mr. Achintya Kr. Banerjee,
Mr. Debangshu Mandal ...for the K.M.C.

Mr. Tapas Duttafor the Respondent No.1 /
Writ Petitioner.

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

In re : IA CAN 1 of 2022

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

I A CAN 1 of 2022 is, accordingly, disposed of.

In re : MAT 1342 of 2022, IA CAN 2 of 2022

A Judgment and Order dated June 6, 2022 is
under challenge in this appeal. By the said order, the
learned Single Judge has directed immediate
implementation of an order of the Municipal Building
Tribunal passed on December 9, 2019, directing
demolition of the appellant's building.

It is submitted on behalf of the appellant that the appellant had engaged a learned Advocate to contest the writ petition in which the impugned order was passed and the appellant was all through under the impression that her interest is being looked after by her Advocate. From time to time, she enquired from her Advocate as regards the status of the case and she was assured that the case has not yet been heard. Suddenly, a group of persons came from Kolkata Municipal Corporation and on the strength of the impugned order, demolished part of her building. Today, 11.00 a.m. is the time fixed for demolition of the remainder of the building. Hence, this urgent appeal.

We notice that the appellant was not represented before the learned Single Judge on the day the impugned order was passed. The appellant says that she was under the bona fide belief that her Advocate would protect her interest. However, it transpires that her Advocate passed away in May, 2022, and hence, her case went un-represented.

We are not inclined to go into the merits of the case. The appellant may approach the learned Single Judge with an appropriate application explaining her absence on the day the impugned order was passed. If such an application is made, the learned Judge is requested to decide the same in accordance with law.

Only to grant a breathing space to the appellant, let the demolition not be carried out for a fortnight from date.

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

MAT No.1342 of 2022 stands disposed of along with IA CAN 2 of 2022.

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

(Rai Chattopadhyay, J.)

(Arijit Banerjee, J.)