

20.07.2022
Item No. 02
Court No.6.
S. De

**M.A.T. 1358 of 2019
IA No. CAN/2/2019
(Old No. CAN/9524/2019)**

Smriti Das & Ors. (Ramkrishna Das since deceased).

Vs

Rabindra Nath Chakraborty & Ors.

Mr. Jayak Kumar Gupta,
...for the appellants.
Mr. Soumitra Banerjee,
...for the respondent no.1.
Mr. Bikash Kumar Chatterjee,
...for the Panihati Municipality.

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

Pursuant to the order of a Co-ordinate Bench dated April 20, 2022, the Panihati Municipality has filed a report along with sketch map and photographs. The municipality has found that the deceased original appellant has deviated from the sanctioned plan while making construction. To that extent, the construction would be unauthorized.

Learned advocate for the appellants says that the report is not correct.

We are not inclined to nor in a position to ascertain whether the report is correct or not. The municipality is the authority which has to look into the matter. Since the municipality has found that

there is unauthorized construction to some extent, the municipality is directed to take steps in terms of Section 218 of the West Bengal Municipal Act, 1993, which necessarily means that before any action is taken in respect of the impugned construction, the appellants shall be afforded an opportunity of hearing. The writ petitioner/respondent, Rabindra Nath Chakraborty also may be heard by the municipality. In the event, the appellants are not able to satisfy the municipality that the construction is not unauthorized, the municipality shall take appropriate steps, in accordance with law. The municipality shall complete the entire exercise within three months from the date of communication of this order.

No useful purpose will be served by keeping the appeal pending. Accordingly, MAT 1358 of 2019 is disposed of along with the connected application being I.A. No. CAN/2/2019 (Old No.CAN/9524/2019).

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Rai Chattopadhyay, J.)

(Arijit Banerjee, J.)