

14.12.2022
S/L. No. 30
Court No.12
Suvayan/
Sourav

MAT 1453 of 2022
With
IA No: CAN 1 of 2022
With
IA No: CAN 2 of 2022

Goutam Maity
Vs.
Pratim Paul & Ors.

Mr. Meghnad Dutta
Mr. Abhisek Shaw

...for the appellant.

Mr. Debabrata Saha Roy
Mr. Pingal Bhattacharyya
Mr. Subhankar Das

...for the private respondent.

Mr. Bikramaditya Ghosh
Mr. Abhisek Barman Das
Ms. Srijoni Chongdar

...for the respondent nos. 2 to 10.

In re: CAN 1 of 2022

This is an application for condonation of delay.

Regard being had to the facts and submissions advanced by learned Counsel for the parties, the delay in preferring the appeal is condoned.

Accordingly, interim application CAN 1 of 2022 is disposed of.

In re: MAT 1453 of 2022
With
IA No: CAN 2 of 2022

1. Heard Mr. Megnad Dutta, learned Counsel for the appellant, Mr. Debabrata Saha Roy, learned

Counsel for the private respondent and Mr. Bikramaditya Ghosh, learned Counsel for the respondent Nos. 2 to 10.

2. Extension of interim order dated 19.06.2022 passed by the Hon'ble Single Judge has been impugned in this appeal.

3. The writ petition was filed by the present appellant who has been issued with a letter of intent by the competent Oil Company for setting up a petrol pump. Subsequently, another letter of intent was issued in respect of the private respondent for setting up a petrol pump in the advertised location.

4. The grievance of the present appellant is that the Oil Company should not have issued the letter of intent to the private respondent as the petrol pump proposed to be set up is located near the petrol pump set up by the present appellant and the same would effect the sale of the present appellant.

5. The matter was heard, taken up for the first time by Hon'ble Single Judge on 14.02.2022. On that day no interim order was passed. Subsequently, the matter was taken up on 18.02.2022. On that day exhaustive argument was advanced by learned Counsel for both the parties regarding the maintainability of the writ petition for want of *locus*

standi in favour of the writ petitioner (present private respondent).

6. After hearing learned Counsel for the parties interim order was passed by Hon'ble Single Judge.

7. The interim order was challenged before the Division Bench in MAT 381 of 2022 by the present appellant who is the private opposite party in the writ petition. Hon'ble Division Bench disposed of the appeal with the following observation:

“Although exhaustive arguments have been placed by the parties today, this Court is of the clear view that the Hon'ble Single Bench is entitled to satisfy its conscience on the limited question as to whether the construction of the petrol pump outlet in issue is at the location advertised or, not.”

8. Hon'ble Division Bench having clearly zeroed down the point of determination by Hon'ble Single Judge, as a judicial propriety. Hon'ble Single Judge should confine his decision to the question framed by Hon'ble Division Bench and question of maintainability of the writ petition is no longer an issue in view of the aforesaid specific observation by Hon'ble Division Bench, order of which has attained finality, not being impugned in any Higher forum.

9. For the purpose of answering the question framed by Hon'ble Division Bench, Hon'ble Single Judge has to go through the report submitted by the PWD authorities, interpret the said report hear the learned Counsel for the parties, and especially look at the advertisement issued for setting up the petrol pump by the writ petitioner, etc. These are not materials which we think are exhaustive for Hon'ble Single Judge to proceed to determine the question framed by Hon'ble Division Bench. Hon'ble Single Judge is free to take any other materials into consideration for arriving at a just decision besides the sources which we have adnumbered (Supra) as examples.

10. When the private respondent here is protected by an interim order, as an obvious corollary, he should be protected by such interim order till disposal of the writ petition. We, therefore, do not find any infirmity in the impugned order extending the interim protection given to the writ petitioner (present private respondent) in the writ petition. We, however, request the Hon'ble Single Judge to dispose of the writ petition by end of February, 2023, if, otherwise, His Lordship's Board permits His Lordship's to do so.

11. Parties are directed to co-operate in hearing of the matter and affidavit, if any, be exchanged on the

basis of the question framed by Hon'ble Division Bench in the meantime.

12. Accordingly, MAT 1453 of 2022 along with interim application CAN 2 of 2022 are disposed.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)