

10-11. 13.12.2022
Ct. No.6
Tanmoy

MAT 1455 of 2022

Tapan Roy
-Versus-
Gopal Chandra Paul & Ors.
With
IA No: CAN/1/2022

With

MAT 1801 of 2022

Gopal Chandra Paul & Ors.
-Versus-
The State of West Bengal & Ors.
With
IA No: CAN/1/2022
With
IA No: CAN/2/2022

Mr. Supratim Dhar, Adv.,
Mr. K.M. Hossain, Adv.

...for the appellant
in MAT 1455 of 2022.

Mr. Partha Sarathi Bhattacharyya, Ld. Sr. Adv.,
Mr. Raju Bhattacharyya, Adv.,
Mr. Anindya Bose, Adv.,
Mr. Diptendu Mondal, Adv.

...for the respondent nos.2-8
in MAT 1455 of 2022 &
...for the appellants in
MAT 1801 of 2022.

Mr. Sandipan Banerjee, Adv.,
Mr. Sobhan Majumder, Adv.,
Mr. Ankit Sureka, Adv.

...for the Howrah
Municipal Corporation.

Affidavit of service in connection with MAT 1801 of
2022 filed in Court today be kept with the records.

By consent of the parties, both the appeals and the
connected applications are taken up together for hearing.

In Re: IA No: CAN/1/2022

In

MAT 1801 of 2022

This is an application for condonation of delay of thirty one (31) days in filing the appeal, as noted by the Stamp Reporter. Causes shown being sufficient, the delay is condoned. The application being IA No: CAN/1/2022 in MAT 1801 of 2022 is accordingly disposed of.

In Re: MAT 1455 of 2022

With

IA No: CAN/1/2022

With

MAT 1801 of 2022

With

IA No: CAN/2/2022

MAT 1455 of 2022 is an appeal preferred by a tenant of the building in question. MAT 1801 of 2022 is an appeal filed by the landlords of the building in question. Both the appeals are directed against the same order dated August 17, 2022, passed by the learned Single Judge in WPA 14353 of 2022, which was filed by the landlords. The tenant who has filed the other appeal was a private respondent in the writ petition.

The writ petitioners had challenged a notice of demolition of unauthorized construction. The learned Judge rejected such challenge observing that the third floor to the seventh floor of the building is unauthorized and no sanctioned plan could be produced by the writ petitioners to show that permission had been obtained by them to put up such construction. The learned Judge

directed implementation of the demolition notice. Hence these two appeals.

Mr. Bhattacharyya, learned Senior Advocate appearing for the appellants in MAT 1801 of 2022, says that at no point of time sufficient opportunity of hearing was given to the appellants and without affording such opportunity demolition notice has been issued. This is disputed by Mr. Banerjee, learned Advocate appearing for the Howrah Municipal Corporation.

However, Mr. Banerjee says on instruction, that the Corporation is willing to grant a hearing to the appellants in both the appeals.

Since it appears to us that the only possible grievance of the appellants could be that they were not given opportunity of hearing, let the appellants in both the appeals approach the Assistant Engineer-in-charge, Building Department, Howrah Municipal Corporation on December 16, 2022 at 12 noon when the said Officer shall make available to them copies of all documents that the said Officer intends to rely upon. On that day, the said Officer will fix an early date of hearing in the presence of the parties. The parties shall attend such hearing. The said Officer shall thereafter take appropriate action. Till a fresh decision is taken by the said Officer, in accordance with law, by passing a reasoned order, the order of demolition shall be kept in abeyance. If the appellants are unable to demonstrate before the said Officer that the

impugned construction is authorized, the demolition order will be promptly implemented.

The appeal being MAT 1455 of 2022 with the connected application being IA No: CAN/1/2022 and the appeal being MAT 1801 of 2022 with the connected application being IA No: CAN/2/2022 are disposed of with the aforesaid observations.

Let urgent photostat certified copy of this order, if applied for, be made available to the parties upon compliance with all necessary formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)