

28.11.2022
Item No.6.
Court No.6.
AB

M.A.T. 1491 of 2022
With
IA CAN 1 of 2022

Sanjoy Palangder
Vs
The State of West Bengal & Others

Mr. M. P. Gupta,
Mr. Ayan Mitrafor the Appellant.

Mr. Sandipan Banerjee,
Mr. Sobhan Majumderfor the H.M.C.

Mr. Ankit Surekafor the Respondent No.6.

Read order dated November 14, 2022.

Mr. Banerjee, learned Advocate representing Howrah Municipal Corporation (in short "HMC") says, on instructions, that a copy of the written objection filed by the private respondent on the basis whereof hearing was held before the relevant Officer of HMC and mutation granted in favour of the appellant was cancelled by order dated August 26, 2019, was not made available to the appellant. Hence, when hearing was held before the relevant Officer, the appellant did not have the benefit of knowing what was there in the said written objection.

Learned Advocate for the respondent no.6 says that the appellant had got his name mutated in respect of the concerned property by producing a fake

deed. This is disputed by learned Advocate for the appellant.

In our view, non-supply of a copy of the written objection on the basis whereof the hearing was held, would amount to breach of the principles of natural justice. Solely on that ground and without going into the merits of the case, we set aside the order under appeal as well as the order dated August 26, 2019, passed by the Deputy Assessor cancelling the mutation that had been earlier granted in favour of the appellant.

The Deputy Assessor shall consider the matter afresh and take a reasoned decision in the matter in accordance with law after giving an opportunity of hearing to all concerned including the appellant and the private respondent herein. The Deputy Assessor shall allow the parties to file relevant documents before him.

Needless to say that a copy of the written objection will be made available by the private respondent to learned Advocate on record for the appellant within three days from date.

The Deputy Assessor shall give sufficient notice of hearing to the parties. The entire exercise shall be completed by the Deputy Assessor or any other appropriate authority within six weeks from the date of receipt of a copy of this order.

We make it clear that we have not gone into the merits of the case. The Deputy Assessor or any other appropriate authority shall take an informed decision in the matter in accordance with law.

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

M.A.T. No.1491 of 2022 is, accordingly, disposed of along with IA CAN 1 of 2022.

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

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)