

D/L
Item No. 13
28.09.2022
KOLE

**MAT 1553 of 2022
With
IA No. CAN 1 of 2022**

**Sri Sukdeb Bera
-Vs.-
Haldia Municipality & Anr.**

*Mr. Salil Kr. Maiti,
Mrs. Pinki Saha,
Mr. Sakya Sen,
Mr. S. Tewary*

...for the appellant.

*Mr. Debojyoti Basu,
Mr. R. Alam,
Mr. S. H. Hassan,
Mr. A. Yasmin,*

...for the Municipality.

*Mr. Susovan Sengupta,
Mr. M. K. Sadhu,*

...for the State.

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

This appeal is preferred against an *interim* order dated September 6, 2022.

The appellant says that the order was passed *ex parte* in so far as he is concerned. He says that the matter was mentioned without notice and was brought into the list of the learned Single Judge. This is strongly disputed by Mr. Basu, Learned Advocate, for the writ petitioners/respondents. Mr. Sen, Learned Advocate, for the appellant says that his client has already filed an application under Order 9 Rule 13 of the Code of Civil Procedure for recalling of the order dated September 6, 2022. That application should be taken up expeditiously.

Since the appellant has already filed an application for recalling of the order impugned in this appeal, we are not inclined to entertain this appeal. The proper course of action for the appellant will be to pursue the application that he has filed before the Learned Single Judge. The appellant will be at liberty to request the learned Single Judge for early hearing of his application and the learned Single Judge may consider his request to the extent the business of the Court may permit.

A copy of the supplementary affidavit filed by the writ petitioners/respondents before the learned Single Judge has been made over to the appellant's learned Counsel in Court today.

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

MAT 1553 of 2022 and CAN 1 of 2022 are, accordingly, disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Apurba Sinha Ray, J.) (Arijit Banerjee, J.)