

29.09.2022
Item Nos.5&7
Court No.6.
S. De

M.A.T. 1621 of 2022
with
I.A. No. CAN/1/2022
I.A. No. CAN/2/2022
I.A. No. CAN/3/2022

Amit Supakar.
Vs
Bikash Laha & Ors.

And

M.A.T. 1620 of 2022
with
I.A. No. CAN/1/2022
I.A. No. CAN/2/2022
I.A. No. CAN/3/2022

Rashmi Tigga.
Vs
Bikash Laha & Ors.

Mr. Debajyoti Basu,
Mr. Barun Chatterjee,
Mr. Subhojit Seal,
Mr. Reshmi Mukherjee,
...for the appellants in both
the appeals.

Mr. Indranath Mitra,
Mr. Pingal Bhattacharyya,
...for the respondent no.1 in
both the appeals.

Affidavit-of-service filed in Court be kept with
the records.

By consent of the parties, both the appeals and
the connected applications are taken up together for
hearing and are disposed of by this common judgment

and order as both the appeals are directed against the same order.

The appellants in these two appeals were not parties to the writ petition before the learned Single Judge. They say that they are vitally affected by the interim order dated June 29, 2021 passed in W.P.A. 9912 of 2021. They have come to know of the said order only on September 21, 2022. Immediately, they have approached us with applications for leave to appeal and applications for condonation of delay.

**In re : CAN 1 of 2022 (in MAT 1621 of 2022)
& CAN 2 of 2022 (in MAT 1620 of 2022)**

Having heard learned counsel for the appellants, we are satisfied that this is a fit case where leave to appeal should be granted to the appellants as they would be affected by the order sought to be challenged before us.

CAN 1 of 2022 (in MAT 1621 of 2022) and CAN 2 of 2022 (in MAT 1620 of 2022) are, accordingly, disposed of.

**In re : CAN 2 of 2022 (in MAT 1621 of 2022)
& CAN 3 of 2022 (in MAT 1620 of 2022)**

These are applications for condonation of delay of 425 days in filing the appeals. Causes shown being sufficient, the delay is condoned.

CAN 2 of 2022 (in MAT 1621 of 2022) and CAN 3 of 2022 (in MAT 1620 of 2022) are, accordingly, disposed of.

**In re : MAT 1621 of 2022, CAN 3 of 2022 And
MAT 1620 of 2022, CAN 1 of 2022.**

The Asansol Municipal Corporation had passed an order dated January 21, 2021, in compliance of a direction passed by a learned Single Judge of this Court in W.P. No. 22015(W) of 2019 for removal of deviation/demolition of unauthorized construction in respect of the premises in question. The writ petitioner is an occupant of the building in question. He filed the present writ petition challenging the order dated January 21, 2021 passed by the Corporation. The learned Judge passed an interim order dated June 29, 2021, the operative portion whereof reads as follows :-

“As it appears that the Asansol Municipal Corporation has come to a definite conclusion that there are unauthorized construction, accordingly, the direction passed in the order dated 21.01.2021 be complied with by the persons responsible immediately.

In the event the direction passed in the order dated 21st January, 2021 is not carried out by the persons responsible, Asansol Municipal Corporation shall take

necessary steps in accordance with law to remove the deviation/demolish the unauthorized construction”

The appellants are also occupants of different flats in the building in question. The appellants say that they ought to have been added as parties in the writ petition and ought to have been heard before the impugned order was passed.

We agree with the appellants. The impugned order will have adverse civil consequences for the appellants. Hence, the principles of natural justice warrant that they be heard before any order is passed which is likely to affect them.

Accordingly, without going into the merits of the case at all and only on the ground of natural justice, we allow these appeals, set aside the order under appeal and request the learned Single Judge to consider the matter afresh after giving an opportunity of hearing to the present appellants.

To save time, we add the present appellants as respondents to the writ petition which is pending before the learned Single Judge. Learned advocate-on-record for the writ petitioner shall make necessary amendment to the cause title of the writ petition and serve copy of the writ petition on the added respondents (present appellants). The respondents in the writ petition would be entitled to file affidavit-in-

opposition within two weeks after the ensuing Puja Vacation (November 14, 2022). Reply, if any thereto, be filed within a week thereafter (November 21, 2022).

The parties will be at liberty to mention the matter before the learned Single Judge having determination to hear the matter after completion of affidavits or after the time to file affidavits expires.

The appellants say that the demolition order passed by the Corporation on January 21, 2021, was passed behind their back. The order should be set aside. We are not inclined to do that. If the appellants are entitled to challenge the Corporation's order in accordance with law, they will be at liberty to do so. This does not mean that we are affirming the order of the Corporation. We have not considered the merits of that order at all.

M.A.T. 1621 of 2022 and M.A.T. 1620 of 2022 are, accordingly, disposed of along with the applications being I.A. No. CAN 3 of 2022 and I.A. No. CAN 1 of 2022.

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.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)