

15.11.2022
Item No. 11
Court No.6.
S. De

**M.A.T. 1754 of 2022
with
I.A. No. CAN/1/2022**

**Krishnasis Maity.
Vs
Midnapur Municipality & Ors.**

Mr. Biswarup Bhattacharyya,
Mr. Pingal Bhattacharyya,
Ms. Soumita Ghosh,
...for the appellant.
Mr. Rabindranath Mahata,
Mr. Aritra Shankar Ray,
...for the respondent no.5.
Mr. Sujay Bandyopadhyay,
...for the respondent nos. 7, 8 & 11.
Mr. Malay Krishna De,
Mr. Shambhu Mahato,
...for the Municipality.

Affidavit-of-Service filed in Court be taken on
record.

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

A judgment and order dated October 31, 2022
whereby the appellant's writ petition being WPA 17804
of 2022 was disposed of, is under challenge in this
appeal.

The appellant approached the learned Single
Judge with the grievance that the private respondent
who is his neighbour, has put up a six-storied building

flouting several applicable building rules and regulations.

Mr. Bhattacharyya, learned advocate appearing for the appellant further argues that contrary to the mandate contained in the Government Notification dated August 2, 2021, which requires all Municipalities to issue permissions/approvals on-line mandatorily and not through physical mode, the concerned Municipality has issued revised sanctioned plan physically. Learned advocate says that unless the private respondent is immediately restrained from further proceeding with the construction, grave mischief may be caused.

As we see from the order of the learned Single Judge, a representation dated June 30, 2022, has been made by the appellant through his learned advocate, to the Chairman, Board of Councillors, Midnapur Municipality. In such representation the appellant has enumerated the alleged breach of applicable building rules and regulations by the private respondent. No decision has yet been taken by the Municipality on such representation.

In our view, the learned Judge rightly directed the Municipality to dispose of the representation in accordance with law after hearing all concerned parties. We modify the order under challenge only to the extent that the representation of the appellant will

be disposed of by the Municipality positively within a fortnight from the date of receipt of a copy of this order. The other directions in the order impugned shall remain unaltered. We clarify that if the private respondent proceeds with the impugned construction, he will be doing so at his own risk and peril. Needless to say, if the Municipality ultimately holds in favour of the present appellant, the private respondent will have to suffer the consequences. The appellant and the private respondent will be entitled to rely on such documents as they may be advised but before that they must exchange such documents.

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

M.A.T. 1754 of 2022 is, accordingly, disposed of along with the application being 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.)