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02.05.2022
(p.jana)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO No. 4153 of 2019
(IA No: CAN 1 of 2020)(Old No: CAN 640/2020)

Md. Sabir & ors.
-versus-
State of West Bengal & ors.

Mr. Sailesh Kumar Gupta,
... for the petitioners.

Mr. Gopal Chandra Das, ... for the KMC.

The revisional application under Article 227 of the Constitution of India is directed against the order dated February 5, 2019 passed by the Municipal Building Tribunal in B.T. Appeal No. 60 of 2017.

The petitioners aggrieved by the order dated May 26, 2017 passed by the O.S.D. (Building) South, Kolkata Municipal Corporation in Demolition Case No. 03-D/IX/17-18 preferred an appeal before the Municipal Building Tribunal, Kolkata Municipal Corporation being B.T. Appeal No. 60 of 2017.

In the said appeal the petitioners filed an application on October 18, 2017 praying stay of operation of the order under challenge.

On the said application, the Municipal Building Tribunal, Kolkata Municipal Corporation vide order dated October 31, 2017 passed an ad interim order of stay till November 11, 2017

subject to the condition that the petitioners depositing a sum of Rs. 1,50,000/- (Rupees one lakh fifty thousand).

The petitioners deposited the said amount of Rs. 1,50,000/- (Rupees one lakh fifty thousand) on November 14, 2017.

The said ad interim order thereafter was time to time extended but on February 05, 2019, the Tribunal dismissed the application filed by the petitioners for extension of the said ad interim order and also dismissed the said application for stay dated October 18, 2017 which was already disposed of.

The appeal is pending and as it appears from the record, it is at very matured stage.

The order impugned whereby the application for extension of the interim order was rejected discloses no reason, more over dismissal a disposed of application signifies total non-application of mind.

Therefore, the order impugned is not sustainable and is accordingly set aside.

The operation of the order dated May 26, 2017 passed by O.S.D. (Building) South in Demolition Case No. 03-D/IX/17-18 is stayed till the disposal of the B.T. Appeal No. 60 of 2017.

The Tribunal is requested to expedite the disposal of the said appeal.

It is made clear that this Court has not gone into the merit of the said appeal, it is by the Tribunal to decide the same in accordance with law.

CO 4153 of 2019 is disposed of with the above terms without any order as to costs.

In view of disposal of the revisional application, the application being IA No: CAN 1 of 2020(Old No: CAN 640/2020) is also disposed of.

Interim order, if there be any, stands vacated.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance of all requisite formalities.

(Biswajit Basu, J.)