

22.03.2022
Item No.33
Court No.6.
AB

R.V.W. 282 of 2017
With
IA CAN 1 of 2018
(Old CAN 654 of 2018)
IA CAN 2 of 2021
(CAN not in file)
IA CAN 3 of 2022
In
F.M.A. 1070 of 2018
IA CAN 2 of 2014
(Old CAN 6249 of 2014)

Sri Sanjit Jana
Vs
Smt. Sumitra Kanrar & Others

Mr. Soumen Bhattacharya...for the Applicant.

Mr. Mahendra Prasad Gupta,
Mr. Ayan Mitra,
Ms. Antara Panjafor the Private Respondent.

Ms. Manjuli Chowdhury,
Ms. Mekhla Sinhafor the Respondent No.2.

In re : IA CAN 2 of 2021 (Application not in file)

This is an application for substitution of the legal heirs of the appellant.

The appellant died after the present review petition was filed by the private respondent. He has accordingly, taken out this application for substituting the legal heirs of the appellant.

The application being IA CAN 2 of 2021 is allowed.

Let the name of the appellant be deleted from the cause title of the appeal and the name of her legal

heir as mentioned in paragraph 5 of the application be brought on record instead thereof.

Sufficient causes having been shown, the abatement is set aside.

The department shall carry out necessary amendment to the cause title of the appeal papers as well as review petition within a fortnight from date.

In re : IA CAN 3 of 2022

This is an application for condonation of delay of 50 days in filing the review application. Causes shown being sufficient, the delay is condoned.

The application being IA CAN 3 of 2022 is allowed.

In re : R.V.W. 282 of 2017

This application has been filed by the respondent in the appeal against an order dated November 23, 2017, whereby M.A.T. No.2007 of 2013 was disposed of.

The writ petitioner had approached the learned Single Judge alleging that the private respondent in the writ petition was making unauthorized construction. The learned Single Judge by order dated December 17, 2013 directed demolition of the unauthorized construction. The private respondent preferred an appeal being M.A.T. 2007 of 2013.

In the appeal, an interim order dated July 8, 2014 was passed staying the operation of the learned

Single Judge's order directing demolition of the structure in question and directing the competent authorities of the Howrah Zilla Parishad to take appropriate decision regarding regularization of the building in question, as had been applied for by the appellant.

The writ petitioner preferred a Special Leave Petition against the said interim order, which was disposed of by the Hon'ble Supreme Court by an order dated September 8, 2014, which reads as follows:

"The impugned order is an interim order. Hence, we are not inclined to interfere with it. The petitioner claims to be a co-owner of the property in question. The Howrah Zilla Parishad, while considering whether the premises in question should be regularized or not, shall also hear the petitioner and pass order in accordance with law without being influenced by any observation made in the impugned order."

Subsequently, the appeal was taken up for final hearing on November 23, 2017. The Appellate Court was apprised that the competent authority of the Howrah Zilla Parishad had accorded post-facto sanction in respect of the building in question as a result whereof, the building stood regularized. Putting such fact on record, the appeal was disposed of after setting aside the demolition order of the learned Single Judge.

The review petitioner says that the competent authority had been directed by the Hon'ble Supreme Court not to be influenced by any observation made in the interim order dated July 8, 2014 passed by the Division Bench. However, in fact, the competent authority has accorded post-facto sanction on the basis of the interim order of the Division Bench. This, according to the writ petitioners, is illegal and calls for interference.

The order of the competent authority according post-facto sanction was not the subject matter of the appeal, which was disposed of by the order under review. If the review petitioner is aggrieved by the order of the competent authority, his remedy would be to challenge the same before the appropriate forum in accordance with law if he is entitled to do so. No ground for review of the order dated November 23, 2017 has been made out.

The review application being RVW 282 of 2017 along with CAN 654 of 2018 stand, accordingly, disposed of.

Urgent Photostat Certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)