

APOT/215/2022
with
WPO/2257/2022
IA NO:GA/1/2022

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

CHANDRA UDYOG AND ANR.
Vs.
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE ARIJIT BANERJEE
AND
The Hon'ble JUSTICE APURBA SINHA RAY
Date : 30th November, 2022.

Appearance:

Mr. Abhrajit Mitra, Sr. Advocate
Mr. Arindam Banerjee, Advocate
Mr. Chayan Gupta, Advocate
Mr. Dwip Raj Basu, Advocate
Mr. Souradeep Banerjee, Advocate
Mr. Shubham Prasad, Advocate
...for appellants/ writ petitioners

Mr. Asoke Kr. Banerjee, Sr. Advocate
Mr. Arijit Dey, Advocate
...for KMC

The Court : By consent of the parties, the appeal and the application are taken up for hearing.

The property of the appellants on Camac Street, Kolkata, has been declared to be a heritage building by the Kolkata Municipal Corporation. This has been challenged by the appellants by filing WPO/2257/2022.

It appears that submission was made on behalf of the parties before the learned Single Judge that a similar issue is pending consideration before this Court. Further, an order dated September 16, 2022 passed by a learned Single Judge in WPO/74/2020 was also placed before the learned Single Judge in this matter. In WPO/73/2020 the learned Single Judge by His Lordship's order dated September 16, 2022 had adjourned the hearing of the writ petition observing that two appeals are pending before this Court, which involves similar issues.

It is true that this Court is in seisin of two appeals, being APO/3/2020 (Purti West Enclave Pvt. Ltd. vs. KMC & Ors.) and APO/68/2022 (KMC vs. M/s. G.K. Soni Housing and Development Pvt. Ltd.). However, the properties concerned in those two appeals are entirely different from the property concerned in the present proceedings. Each property has to be dealt with separately to see whether it should be declared as a heritage property. There cannot be any common question of fact.

We are of the view that the learned Single Judge in this case may proceed to hear out and dispose of the writ petition. The appeals pending before this Court will be decided on their own merits and pendency of the appeals will not stand in the way of the learned Judge disposing of the writ petition.

Mr. Asoke Kumar Banerjee, learned Senior Advocate representing KMC, raised a question of maintainability of this appeal.

In view of the order that we have passed, we do not see any necessity for deciding that question.

The appeal and the application are accordingly disposed of.

(ARIJIT BANERJEE, J.)

(APURBA SINHA RAY, J.)