

02. 25.01.2023
Ct. No.6
Tanmoy

MAT 38 of 2023

**Sandip Mondal & Anr.
-Versus-
Santanu Chowdhury & Ors.**

**With
IA No: CAN/1/2023**

Mr. Rabiul Islam, Adv.,
Mr. K.M. Hossain, Adv.,
Mr. Sk. Jayed Hossain, Adv.

...for the appellants.

Mr. Lal Mohan Basu, Adv.,
Mr. Arka Sengupta, Adv.

...for the writ petitioner/
respondent no.1.

Mr. Manas Kundu, Adv.,
Ms. Neelam Singh, Adv.

...for the State.

Mr. R.N. Chakraborty, Adv.,
Mr. M. Ahmed, Adv.

...for the Maheshtala
Municipality.

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

This appeal is directed against a judgment and order dated December 21, 2022, whereby WPA 13348 of 2018, was allowed by the learned Single Judge.

The writ petition was filed by the respondent no.1 herein. The appellant was the private respondent in the writ petition.

The writ petitioner challenged revocation of a plan sanctioned in his favour by the Maheshtala Municipality.

Such revocation was at the instance of the present appellant.

The writ petition was allowed by the order impugned herein and the revocation of the sanctioned plan was set aside by the learned Single Judge.

The appellant is aggrieved by the fact that according to him, the matter was suddenly listed after four years and without any notice to him, the writ petitioner had the matter heard out. This was so in spite of the fact that a copy of the affidavit-in-opposition affirmed by the private respondent in the writ petition had been served on learned Advocate for the writ petitioner. The appellant is aggrieved by the fact that he did not have opportunity of making submission before the learned Single Judge before the order impugned was passed.

Since the appellant, for whatever reason, was not present before the learned Single Judge on the day the writ petition was disposed of, we are not inclined to enter into the merits of the matter. The appellant may approach the learned Single Judge with an appropriate application. If the appellant is able to satisfy the learned Judge that there was sufficient cause for him not to be represented on the day the writ petition was disposed of, the learned Judge may pass appropriate orders.

We have not entered into the merits of the case. If the appellant approaches the learned Single Judge, the

learned Judge is requested to decide the matter as His Lordship may deem fit and proper.

Since we have not called for affidavits, the allegations in the stay petition shall be deemed not to have been admitted by the respondents.

The appeal being MAT 38 of 2023 and the connected application being IA No: CAN/1/2023 are disposed of.

Let urgent photostat certified copy of this order, if applied for, be made available to the parties, upon compliance with all necessary formalities.

(Uday Kumar, J.)

(Arijit Banerjee, J.)