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27-04-2023
debajyoti
(Ct. no.06)

MAT 129 of 2023
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IA NO:CAN/1/2023

Sk. Rafikul Islam
Vs.
The North Dum Dum Municipality & Ors.

Mr. Kushal Chatterjee,
Mr. Shibjit Mitra

... For the Appellant.

Mr. Sandip Ghosh,
Mr. Sudarsan Roy,
Mr. Debayan Ghosh,
Mr. Romit Bose

... For North Dum Dum
Municipality.

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

A judgment and order dated December 15, 2022 whereby the appellant's writ petition was dismissed, is under challenge in this appeal.

The appellant had approached the learned Single Judge complaining that the Community Hall of the North Dum Dum Municipality was an unauthorized construction. It was submitted that the land on which the Hall was built, is recorded in the name of the writ petitioner's forefather. The learned Judge observed that in the writ petition, it has been averred that the construction has been made on private land without acquiring the same in accordance with law. The learned Judge concluded that there is nothing on record to show that the land had been forcefully occupied by the Municipality. The learned Judge dismissed the writ petition by leaving it open for

the writ petitioner to approach the appropriate forum for redressal of his grievances in accordance with law with valid documents, if so advised. Hence, this appeal.

We have heard learned counsel for the parties. We find absolutely no infirmity in the order under appeal. No title dispute can be decided by the writ court.

Mr. Chatterjee, learned advocate for the appellant, says that there is at least one line in the writ petition to the effect that conversion of the land was not undertaken before construction was made thereon. The appellant will be at liberty to approach the appropriate authority in accordance with law in that regard.

The appeal and the connected application are, accordingly, disposed of.

Affidavits not having been called for, the allegations in the stay application shall be deemed not to have been admitted by the respondents.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of all necessary formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)