

11. 10.05.2023
Court No.6
Tanmoy Ghosh

MAT 204 of 2023

**Dharmendra Shaw
-Versus-
Omprakash Jaiswal & Ors.**

**With
IA No: CAN/1/2023
With
IA No: CAN/2/2023**

Mr. Tanmoy Mukherjee, Adv.,
Mr. Souvik Das, Adv.,
Mr. Rudranil Das, Adv.

...for the appellant.

Mr. Prasenjit Burman, Adv.,
Mr. Soumyajit Mandal, Adv.

...for the respondent no.1.

Mr. Sandipan Banerjee, Adv.,
Mr. Ankit Sureka, Adv.,
Mr. Sobhan Majumder, Adv.

...for the Howrah Municipal
Corporation.

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

Report dated May 6, 2023, filed on behalf of the Howrah Municipal Corporation be kept with the records.

Mr. Banerjee, learned Advocate appearing for the Corporation, says that the first tender process that was initiated for awarding the job of preparing a structural stability report in respect of the impugned construction, has failed. No offer was received pursuant to the notice inviting tender. He further says that it appears that nobody

is willing to take the risk of certifying to the structural stability of the impugned construction.

An affidavit of undertaking was filed by the appellant on February 17, 2023. Almost three months have elapsed since then. It does not appear that the appellant has taken any appreciable step over the last three months for relocating the occupants of the building in question so that the admittedly unauthorized construction can be brought down. Such conduct of the appellant makes us suspicious about his *bona fides* as well.

In the facts and circumstances aforesaid, we do not interfere with the order under appeal excepting that we grant one month's time to the appellant to shift the present occupants to other accommodation so that the unauthorized structure can be demolished immediately. Such shifting shall be completed by June 15, 2023. The appellant shall immediately thereafter cause demolition of the building in question and in any event by the end of June, 2023. In default, the Corporation shall demolish the building in question forthwith and shall be at liberty to recover the costs thereof from the appellant. The other directions in the order under appeal are affirmed and shall be in full force.

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 204 of 2023 and the connected applications being IA No: CAN/1/2023 and IA No: CAN/2/2023 are disposed of.

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

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)