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13-02-2023
debajyoti
(Ct. no.06)

MAT 226 of 2023
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IA NO:CAN/1/2023

Md. Faiyazuddin & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Mohit Gupta,
Mr. Jit Ray,
Ms. Ruby Mukherjee

... For the Appellants.

Mr. Amitesh Banerjee, Senior Standing Counsel,
Mr. Tapas Kumar Adhikari,
Mr. Somraj Dhar

... For the State.

Mr. Ranajit Chatterjee,
Ms. Manisha Nath

... For K.M.C.

Mr. Dyutiman Banerjee

... For Respondent Nos.9,
14, 15, 16.

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

This appeal is directed against an interim order dated February 08, 2023 passed in the appellants' writ petition being WPA 2101 of 2023.

By the order impugned, the learned Judge has directed immediate execution of a demolition order.

Mr. Gupta, learned advocate, appearing for the appellants/writ petitioners, says that 62 families will be rendered homeless if the impugned construction is demolished. Mr. Gupta says that the appellants are praying for mercy.

We may have full sympathy for the appellants. However, sympathy cannot be a ground for passing

orders. An order has to be passed in accordance with law and an unauthorized construction, which is the subject matter of this proceeding, cannot be allowed to remain.

Mr. Gupta, on instructions, says that he will withdraw the appeal, but prayed for some time for the appellants to shift to alternative accommodation. We do not find such request to be unreasonable. We are told that the building is not in such a state that it will collapse any day. On humanitarian grounds, we grant eight weeks' time to the appellants to shift to alternative accommodation. The appellants, through their advocate-on-record, undertake to this Court that they will vacate the premises in question positively within eight weeks from date along with their belongings.

Since we have granted time to the appellants to vacate the premises in question, the order of the learned Single Judge stands modified to that extent. The Corporation shall not take steps to demolish the impugned construction for eight weeks from date. It is made clear that after the period of eight weeks expires, the police authorities and the Corporation authorities will be free to take all necessary steps for vacating and demolition of the buildings in question.

It appears that the appellants have been taken for a ride by the builder who has raised buildings without obtaining sanction from the Corporation. The appellants will be at liberty to take such steps in law against the landlords/builders as they may be entitled to.

If the parties require any further order, they may make appropriate prayer before the learned Single Judge.

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

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

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

(Apurba Sinha Ray, J.) (Arijit Banerjee, J.)