

20.02.2023
Item No. 13.
Court No.6.
S. De

**M.A.T. 288 of 2023
with
I.A. No. CAN/1/2023**

**Sandip Chatterjee.
Vs
Chandannagore Municipal Corporation & Ors.**

Mr. Kushal Chakraborty,
Ms. Nibedita Mukherjee,
...for the appellant.
Mr. Syamal Kumar Das,
Mr. Ajay Barman Ray,
...for the respondent nos.8, 9 &10.
Mr. Suman Basu,
...for the
Chandannagore Municipal Corporation.

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

An interim order dated January 25, 2023, passed in WPA 19726 of 2021 is under challenge in this appeal.

The writ petitioners approached the learned Single Judge for implementation of what according to them is an order of demolition passed by the Chandannagore Municipal Corporation in respect of an unauthorized construction put up by the private respondent in the writ petition, who is the appellant before us. The private respondent was not represented on the date the impugned order was passed. The learned Judge directed implementation of the

demolition order positively within February 28, 2023. The matter has been directed to be listed before the learned Single Judge on March 13, 2023 with a direction on the Chandannagore Municipal Corporation to file a report on the adjourned date.

Being aggrieved, the private respondent in the writ petition has come up by way of this appeal.

Learned advocate for the appellant says that there is actually no demolition order. What has been directed to be implemented is a notice issued by a 'Bastukar' of the Corporation. A demolition order can be issued only by the Commissioner and a person suffering a demolition order as a statutory right of appeal.

We are not inclined to consider the merits of the case or the submission of the appellant on merits. The appellant ought to have made such submission before the learned Single Judge. However, the appellant was not present before the learned Judge on the day the impugned order was passed. We are not inclined to interfere with the order under appeal.

However, the appellant will be at liberty to approach the learned Single Judge with an appropriate application, by February 24, 2023, explaining his absence on January 25, 2023. If the learned Judge is satisfied that there was sufficient cause for the appellant's absence on that date, the learned Judge

may pass appropriate order as Her Ladyship may deem fit and proper.

We are told that tomorrow (February 21, 2023) has been fixed for implementation of the demolition order. Let no coercive step be taken till February 27, 2023. This is only to grant breathing space to the appellant to approach the learned Single Judge. We make it clear that if the appellant fails to approach the learned Single Judge before February 24, 2023, or is unable to obtain any favourable order from the learned Single Judge, the demolition order, if any, will be forthwith implemented, if necessary with the aid of Police.

We have not gone into the merits of the case.

Since we have not called for affidavits, the allegations contained in the stay application are deemed not to be admitted by the respondents.

M.A.T. 288 of 2023 is disposed of along with the application being I.A. No. CAN 1 of 2023.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)