

07. 10.05.2023
Court No.6
Tanmoy Ghosh

MAT 379 of 2023

**Arup Kumar Das
-Versus-
The State of West Bengal & Ors.**

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

Mr. Partha Pratim Roy, Adv.,
Mr. Dyutiman Banerjee, Adv.
...for the appellant.

Mr. Jahar Datta, Adv.,
Mr. Bipin Ghosh, Adv.
...for the State.

Mr. Gautam Lahiri, Adv.
...for the respondent nos. 4-7.

Mr. Sujit Kumar Ghosh, Adv.,
Mr. Soumyajit Bhatta, Adv.
...for the respondent no. 9.

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

Read order dated May 3, 2023.

The appellant's grievance before the learned Single Judge was that the private respondent has made unauthorized construction. The Municipality submitted before the learned Judge that there was deviation from the sanctioned plan in respect of the ground floor of the building in question. The same was subsequently regularized in accordance with law. Insofar as the first floor of the building is concerned, there is no deviation from the sanctioned plan. Recording such submission, the learned

Judge dismissed the writ petition of the present appellant. Hence this appeal.

Learned Advocate for the Municipality has made the same submission before us as was made before the learned Single Judge. To repeat, he, on instruction, has submitted that the irregularity/illegality in respect of the ground floor which was 80 sq.ft. of additional construction, was regularized upon payment of prescribed fees and a revised plan was sanctioned. Thereafter, plan was sanctioned for construction of the first floor. The first floor of the building has been constructed adhering to such sanctioned plan. There is no unauthorized construction.

In view of the aforesaid, we find no ground to interfere with the order under appeal.

The appeal being MAT 379 of 2023 and the connected application being IA No: CAN/1/2023 are accordingly dismissed.

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.)