

24.03.2023
KC(17)

F.M.A.T. 95 of 2023
Mamata Dolai and Anr.
-versus-
Ramesh Singh and Anr.
with
CAN 1 of 2023

Mr. Sounak Bhattacharya,
Mr. Sumitava Chakraborty,
Mr. Sounk Mandal.....For the appellants.

Mr. Abbas Ibrahim Khan,
Ms. Meena Shabnam,
Ms. Ariba Nayeem.....For the respondents.

We are in a position to dispose of this appeal today after dispensing with all formalities.

The suit before the learned court below was filed by respondents/plaintiffs, tenants occupying a portion of a premises claiming *inter alia* for an order restraining demolition of the building. Allegedly the building is very dilapidated according to the landlord appellants/defendants and it needs immediate demolition for which steps have been taken by them under the Kolkata Municipal Corporation Act, 1980.

By the impugned judgment and order a temporary injunction has been granted restraining appellants/defendants from demolishing “the suit property” and not to disturb the possessory rights of the respondents/plaintiffs and restraining the appellants/

defendants from changing the nature and character of the suit property.

Mr. Sounak Bhattacharya, learned advocate very ably assisted by Mr. Sumitava Chakraborty, learned advocate for the appellants have made elaborate submissions particularly that the respondents are illegal occupants of the premises.

However, we have been shown a judgment and order of this court in APOT No. 43 of 2023, IA No. GA 1 of 2023, WPO 24 of 2023 (Bhanu Sonkar and Anr. –vs- Kolkata Municipal Corporation and Ors.), finally decided on 17th February, 2023 where a coordinate bench of this court directed that the subject building shall not be demolished till the conclusion of the proceedings before the Municipal Commission. Those proceedings before the Municipal Commissioner are still pending, we are told.

Meanwhile, the appellants have mooted a proposal to offer 300 sq. ft. space to the respondents within two kilometers of the premises to accommodate them in the event the building is demolished subject to their establishing their entitlement to the said premises.

In our opinion, in the above facts and circumstances of the case the learned court below has rightly passed the impugned judgment and order. We are not minded to interfere with the same.

However, we direct that hearing of the interim application be advanced to commence on a date in April, 2023, upon exchange of affidavits.

To advance the date for filing affidavits either party shall make an application before the learned court below by 31st March, 2023 for obtaining suitable directions. The hearing of the interim application is to commence by 12th April, 2023 and should be concluded within eight weeks from that date. The appellants will be at liberty to make an appropriate application before the learned court below for rehabilitation of the respondents in the event the building is demolished.

The appeal and the connected application are hereby disposed of.

(I.P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)