

01 18.8.2023

Ct-08

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FA 1 of 2021
with
I.A No. CAN 3 of 2023

M/s. Sun Construction & Ors.
Vs.
Smt. Soma Pal & Ors.

Mr. Sudeep Sanyal
Mr. Sukanta Das
Mr. Chandrachur Lahiri
... For the Appellants

Mr. Alok Kumar Ghosh
Ms. Monisha Nath
... For the K.M.C

Mr. Supriyo Chattopadhyay
Mr. Tapan Sarkar
Ms. Debosri Chatterjee
... For the Respondents

1. The affidavit of undertaking filed on behalf of the appellants is taken on record. The undertaking given in the form of an affidavit reads as follow:-

“That pursuant to the order passed by the Hon’ble Court on 28.7.2023 I undertake that I will complete the construction by 31st May, 2024, on the basis of the revised sanctioned plan. The flat would be ready for possession by the date aforesaid.

That after the construction is duly completed I shall take necessary steps to obtain completion certificate from the Kolkata Municipal Corporation.”

2. In view of the aforesaid undertaking, the

time to handover the possession of the new construction portion is extended by June 2024. In default, the decree shall be immediately executable.

3. There would be an order of injunction restraining the defendants from alienating or encumbering any portion of the land or structure proposed to be handed over in terms of the decree.

4. In terms of the sanctioned plan, the defendants shall handover the possession of a flat of 269 sq.feet instead of 450 sq.feet, as agreed upon by and between the parties. The flat shall consist of one room and one bath and privy instead of two rooms, one kitchen and one bath and privy in the ground floor as originally decreed. The appellants shall, upon completion of the construction after it is made habitable, immediately inform the plaintiff so as to enable the plaintiff to take possession of the newly constructed area.

5. The plaintiff shall not be required to pay any rent for the period they were not in possession and shall continue to tender rent at the rate last paid to the original landlord, subject to any revision of rent. The decree stands

modified to the aforesaid extent.

6. On such consideration, the appeal being FA 1 of 2021 stands disposed of. In view of disposal of the appeal, CAN 3 of 2023 is accordingly disposed of.

7. The department shall draw up the decree as expeditiously as possible.

(Uday Kumar, J.)

(Soumen Sen, J.)

