

13 06.07.2023
RP Ct. No. 01
AN

MAT 746 of 2023
with
IA No. CAN 1 of 2023

Seema Ghosal & anr.
Vs.
Arabinda Nath Jati & ors.

Mr. Animesh Paul

... For the Appellants

Mr. Sandipan Banerjee
Mr. Ankit Sureka
Mr. Sobhan Majumder

... For the H.M.C.

Ms. Jayeeta Sinha
Mr. Ranjit Rajak

... For the State

1. Heard learned counsel for the parties at length.

2. This intra Court appeal is directed against the order dated 17.04.2023 passed in WPA 4013/2023 by which an observation has been made by the learned Single Judge by stating that it is expected that the Howrah Municipal Corporation shall take immediate steps for carrying out the demolition work in due process of law pursuant to the demolition notices issued by the Corporation in respect of the elevator in question.

3. Learned counsel for the appellant points out that there was a writ petition filed by the appellant being WPA 15143/2022 wherein notices issued by the Howrah Municipal Corporation for demolition of the elevator in question has been put to challenge and that writ petition was disposed of by an order dated 14.11.2022 against which an intra Court appeal was filed being MAT

1896/2022 which was disposed of by an order dated 13.12.2022 setting aside the order passed in the writ petition and remanding the matter back to the learned Single Judge to hear out the writ petition afresh after exchange of affidavits. The apprehension of the appellant is that pursuant to the observations made in the impugned order, the Howrah Municipal Corporation will take immediate steps to demolish the elevator in question. We find that there is no positive direction for demolition and the Court has observed that the action has to be carried out after following due process of law. Therefore, if the appellant apprehends any demolition without following due process of law, nothing prevents the appellant from filing a fresh application for stay or injunction in WPA 15143/2022.

4. In the light of the above, both the appeal and the application stand **disposed of** by giving liberty to the appellant to file a fresh application for stay or injunction in WPA 15143/2022 and if such application is filed, the same shall be listed before the concerned learned Single Judge having determination under the caption “application”.

(T. S. Sivagnanam)
Chief Justice

(Hiranmay Bhattacharyya, J.)