

07-09. 26.06.2023
Court No.6
Tanmoy Ghosh

MAT 1117 of 2023

Rinku Barma & Ors.
-Versus-
Md. Tofijul Hoque & Ors.
With
IA No: CAN/2/2023
With
MAT 1116 of 2023

Khulus Ahmed & Ors.
-Versus-
Md. Tofijul Hoque & Ors.
With
IA No: CAN/2/2023
With
MAT 1115 of 2023

Subir Kumar Mondal & Ors.
-Versus-
Md. Tofijul Hoque & Ors.
With
IA No: CAN/2/2023

Mr. Aniruddha Chatterjee, Adv.,
Mr. Sumitava Chakraborty, Adv.

...for the appellants in
MAT 1117 of 2023.

Mr. Suddhasatva Banerjee, Adv.,
Mr. Sounak Bhattacharya, Adv.,
Mr. Md. Zohaib Rauf, Adv.

...for the appellants in
MAT 1116 of 2023.

Mr. Srijib Chakraborty, Adv.,
Ms. Oisani Mukherjee, Adv.

...for the appellants in
MAT 1115 of 2023.

Mr. Biswajib Ghosh, Bar-at-law,

...for the respondent no.1/
writ petitioner.

Mr. Amiteh Banerjee, Ld. Sr. St. Counsel,
Mr. Jayanta Samanta, Adv.,
Ms. Ipsita Banerjee, Adv.

...for the State.

Mr. Ranajit Chatterjee, Adv.,
Mr. Subhrangsu Panda, Adv.

...for the Kolkata Municipal
Corporation.

By consent of the parties, all the three appeals and the connected applications are taken up together for hearing.

Mr. Panda, learned Advocate representing Kolkata Municipal Corporation (KMC), has obtained instructions that there are four civil suits pending before the learned Alipore Court in which there are *interim* orders of injunction restraining KMC from evicting the plaintiffs from the suit property or demolishing the suit property. Let the written instruction be kept with the records.

Mr. Panda says that he has instructed KMC to take appropriate steps for getting such *interim* orders vacated.

The appellants are occupants of the building in question. Although Mr. Panda says that prior to passing of the demolition order, hearing was granted to one of the occupants of the building and the promoter, he is not in a position to dispute that the present appellants were not heard before the demolition order was passed.

Accordingly, let the competent Officer of the Corporation afford an opportunity of hearing to one representative of the appellants in each of the three appeals. The Corporation, after such hearing, will be free to pass any order in accordance with law. We are not binding the hands of the Corporation in any manner. Let

the exercise be completed within a period of eight weeks from the date of communication of this order to the competent Officer of the Corporation. Till a fresh order is passed, the order of demolition shall remain in *abeyance*.

Since there are orders of injunction against the Corporation passed by a competent Court in civil suits, naturally, the Corporation will not be able to give effect to the demolition order without first getting such injunction orders vacated.

The order of the learned Single Judge, impugned before us, is modified to the aforesaid extent.

Learned Advocates for the appellants says that in the event, the building in question is ultimately demolished for being unauthorized, the appellants and other occupants of the building would have the right to claim compensation from the promoter or person responsible for raising the building. If the appellants and the other occupants of the building have such right in law, they shall be at liberty to enforce such right at the appropriate time, if the occasion so arises, before the appropriate forum.

No useful purpose will be served by keeping the writ petition pending as is submitted by learned Counsel for all the parties.

Accordingly, the appeals being MAT 1117 of 2023, MAT 1116 of 2023 and MAT 1115 of 2023 along with the

connected applications and the writ petition being WPA 24263 of 2022 stand disposed of.

Let urgent photostat certified copy of this order, if applied for, be made available to the parties, upon compliance with all requisite formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)