

07.08.2023
Item No.8
Ct. No.5
CHC
(disposed of)

M.A.T.1266 of 2023

**Kanan Bala Mondal
Vs.
Dipak Kumar Mondal & ors.**

Mr. Sounak Bhattacharya,
Mr. Pran Gopal Das,
Mr. Tanmoy Sett,
Mr. Shuvojeet Gupta
...for the appellant

Name not supplied by respondents

The appeal is directed against an order dated
June 5, 2023 passed in W.P.A.20501 of 2022.

Learned advocate appearing for the appellant
submits that, direction for affidavits were not given by
the learned Trial Judge. He submits that, the writ
petition itself was not maintainable in view of the fact
that the writ petitioners, divested their right, title and
interest in respect of the immovable property by sale
thereof to the private respondents in the writ petition.

The writ petitioners/respondent in the
appeal are represented.

Prayer for adjournment is made.

We considered the prayer for adjournment
and unable to accede to the same.

Since, there is an issue of maintainability of
the writ petition and since, directions for affidavits

were not given by the learned Trial Judge, permitting the respondents in the writ petition to use an affidavit to bring material fact on record it would be appropriate to set aside the impugned order dated June 5, 2023 and remand the writ petition for fresh hearing.

None of the parties will be prejudiced by any observation made herein.

M.A.T.1266 of 2023 is disposed of without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)