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06-09-2023
(Ct. no.06)
debajyoti

**IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
APPELLATE SIDE**

**MAT 1671 of 2023
+
IA NO:CAN/3/2023**

**Nagma Parveen
Vs.
Abul Kalam & Ors.**

Mr. Subir Sanyal,
Mr. Pawan Kumar Gupta,
Mr. Biplob Das,
Mr. Vijay Verma,
Mr. Dwaipayan Biswas
... For the Appellant.

Mr. Subhasish Pachhal
... For the Respondents/
Writ Petitioners.

Mr. Tapan Mukherjee, learned AGP,
Ms. Sangeeta Roy
... For the State.

Mr. Ayan Banerjee,
Ms. Debasree Dhamali,
Ms. Riya Ghosh
... For Bally Municipality.

Mr. Sandipan Banerjee,
Mr. Ankit Sureka,
Mr. Sobhon Majumder
... For Howrah Municipal
Corporation.

Read order dated August 30, 2023.

Report of the State filed in Court be taken on record. Let copies of such report be circulated amongst learned advocates for the parties.

Mr. Ayan Banerjee, learned advocate, appearing for Bally Municipality, has produced copies of the relevant records from which it appears that one

Sakina Begum represented the owners of the property in question at the hearing before the Administrator, Bally Municipality.

Learned advocate for the writ petitioners says that Sakina Begum is the mother-in-law (husband's mother) of the appellant herein. This is not disputed by the appellant's learned advocate, who, however, says that the appellant is a tenant under one Shamin, who is a co-owner of the property in question.

Learned advocate for the writ petitioners further says that Shamin is the appellant's husband's brother. Learned advocate for the appellant says that there is no bar in law that the appellant cannot be a tenant under her brother-in-law.

The appellant claims an independent right to be heard before demolition of the building is carried out. Mr. Ayan Banerjee, learned advocate for the Municipality, says that the appellant has no such right to be heard.

Leaving all questions open including the appellant's right to be heard before the Municipality, to cut short the matter, we direct the Municipality to hold a hearing on Monday (September 11, 2023) at 12-00 noon. No further notice of such meeting shall be given. This order will serve as such notice. The appellant, the writ petitioners and if Howrah Municipal Corporation so wishes, will be entitled to participate in such meeting. The Competent Authority of the Municipality shall pass a fresh order after such hearing. We do not bind the hands of the authority to pass the order in any particular manner. The order will be passed in accordance with law and the applicable rules and regulations. The Competent

Authority shall, if possible, pass the order on Monday (September 11, 2023) itself or latest by Wednesday (September 13, 2023) and shall immediately communicate the same to the parties concerned.

The order of demolition shall, for the time being, be kept in abeyance. If any fresh different order is passed, the same will supercede the order of demolition. If similar order is passed, naturally, the order will take effect.

The appeal and the connected application are, accordingly, disposed of.

Affidavits not having been called for, the allegations in the stay petition shall be deemed not to have been admitted by the respondents.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of all necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)