

3.
23-11-2023
(Ct. no.06)
debajyoti

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

**MAT 2250 of 2023
+
IA NO:CAN/1/2023**

**Rajay Banerjee & Anr.
Vs.
The Kolkata Municipal Corporation & Ors.**

Mr. Bidyut Kumar Halder,
Mr. Indranil Halder,
Ms. Neha Singh

... For the Appellants.

Mr. Subhrangsu Panda,
Mr. Atis Kumar Biswas

... For Kolkata Municipal
Corporation.

Mr. Saptansu Basu, Sr. Adv.,
Mr. Aritra Basu,
Mr. Abhijit Sarkar,
Mr. Abhik C. Kundu,
Ms. Abhipiya Sarkar

... For Respondent No.4.

By consent of the parties, the appeal and the connected application are taken up together for hearing.

This appeal is directed against an interim order dated November 01, 2023, passed by a learned Judge in the writ petition of the appellants herein, being WPA 25770 of 2023.

The appellants approached the learned Single Judge with the grievance that the private respondents are making unauthorized construction. It was suggested on behalf of the private respondents that they may be restrained from making any construction which is not as per the sanctioned plan. The

appellants/writ petitioners agreed to such suggestion. Accordingly, the order under appeal was passed with an added direction on the concerned Executive Engineer, Borough-VII, Kolkata Municipal Corporation, to keep watch on the construction and if there be any kind of illegal construction, to report the same to the Court.

The order was, therefore, in effect, a consent order. No appeal is maintainable against such an order.

Learned advocate for the appellants says that the private respondents have no right in law to make the construction that they are proceeding with. The appellants will be at liberty to urge all points before the learned Single Judge. We have not gone into the merits of the case at all.

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.

(M. V. Muralidaran, J.) (Arijit Banerjee, J.)