

3.
11-03-2024
(Ct. no.06)
debajyoti

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

**MAT 474 of 2024
+
IA NO:CAN/1/2024
+
CAN/2/2024**

**Shyamal Kumar Banik & Ors.
Vs.
Mrs. Lolita Lekha (nee Majumder) & Ors.**

Mr. Debashis Banerjee,
Mr. Rakesh Jana
... For the Appellants/Applicants.

Mr. Pratik Majumdar
... For the Respondent/Writ
Petitioner.

Mr. Md. Sk. Galib,
Ms. Ashmita Chakraborty
... For the State.

Mr. Alak Kumar Ghosh,
Mr. Anand Farmania
... For Kolkata Municipal
Corporation.

Re : CAN 1 of 2024

The applicants in this application say that they are aggrieved by the order dated March 04, 2024 passed by a learned Single Judge of this Court in WPA 23892 of 2019, which was taken up for hearing on March 04, 2024 along with four applications filed therein, one of which was the application of the applicants herein for being added as parties to the writ petition. The applicants say that the writ petition is essentially for a direction on the concerned authorities for removal of stall owners from the pavement adjacent to the property in question. The applicants are stall owners. They will be vitally affected by

implementation of such direction. Hence, they want to come up by way of an appeal against the order dated March 04, 2024, whereby the learned Single Judge did not pass any order on CAN 4 of 2024 being the application of the present applicants.

Having heard learned advocate for the applicants, we are of the view that the applicants may have something to say about the proceedings before the learned Single Judge. Hence, this application is allowed.

The application being CAN 1 of 2024 is, thus, disposed of.

Re : MAT/474/24 & CAN/2/24

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

The order appealed against has decided nothing. It has only directed learned advocate for Kolkata Municipal Corporation to obtain instructions “*whether stall owners have removed the stalls or not pursuant to the order passed by this Court previously, hearing of this writ petition stands adjourned till Monday next, 11th March, 2024*”.

Learned advocate for the appellants says that the appellants are vitally affected by the order directing removal of the stall owners. They should be heard before any order is passed on the writ petition which may affect them.

To our query as to whether the appellants hold requisite license for running their stalls, learned

advocate said that applications have been made to the concerned authority, but no license has yet been granted.

Be that as it may, since the appellants had made an application before the learned Single Judge, we request the learned Judge to dispose of that application prior to passing any substantive order on the writ petition, which may adversely affect the present appellants. We clarify that we are not putting any kind of seal of approval on the running of the stalls by the appellants. The learned Single Judge is requested to decide the matter in accordance with law.

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

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.)