

16. 21.05.2024  
Court No.6  
(Tanmoy)

**MAT/959/2024**

**RABINDRANATH MANNA  
VS  
ANJU RANI SAHA AND ORS.**

**With  
IA No: CAN/1/2024  
With  
IA No: CAN/2/2024**

Mr. Manik Das, Adv.,  
Mr. Arindom Chatterjee, Adv.

...for the applicant/  
appellant.

Mr. P. Mukherjee, Adv.,  
Mr. N.K. Das, Adv.

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

Mr. Srijan Nayak, Adv.,  
Mr. Gopal Ch. Das, Adv.

...for KMC.

Affidavit of service filed in Court today be kept with  
the records.

**In Re: IA No: CAN/1/2024**

An order dated April 26, 2024, passed by a learned  
Judge of this Court in WPA 14445 of 2023, being a writ  
petition filed by the respondent no.1 herein, is sought  
to be assailed by the present applicant. The applicant  
herein was not a party to the writ petition. He says that  
he is in possession of the property which has been  
directed to be demolished and has been devised to him  
by the original owner thereof by way of a Will which is

under probate. Proceedings for probate of the Will are pending before the learned District delegate, Sealdah. He says that he will be gravely affected if the demolition order is carried out. Hence he intends to prefer appeal against the order dated April 26, 2024.

Having heard learned Counsel for the applicant we are of the view that the applicant may have sufficient *locus standi* to maintain an appeal against the aforesaid order. This application for leave to prefer appeal is allowed.

The application being IA No: CAN/1/2024 is disposed of.

**In Re: MAT/959/2024**  
**With**  
**IA No: CAN/2/2024**

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

The appellant says that the property in question has been devised to him by the original owner by way of a Will which is under probate. He has been in possession of the property for the last 34 years. No notice of proceedings under Section 400(1) of the Kolkata Municipal Corporation Act, 1980 (in short, 'the KMC Act'), was ever served on him. No stop work notice under Section 401 of the KMC Act was also ever served on him. The demolition order has been passed behind his back. He is the real affected party. The private

respondent, who has been impleaded in the writ petition, really does not have any stake in the property.

Having heard learned Counsel for the parties we are of the view that the appellant should approach the learned Single Judge since the writ petition is still pending. We add the appellant herein as a party-respondent in the writ petition. Learned Advocate-on-Record of the writ petitioner is directed to make appropriate amendment to the cause title of the writ petition by adding the appellant herein as party-respondent. The appellant will be at liberty to file an affidavit before the learned Single Judge or make an appropriate application to bring on record his case.

We have not gone into the merits of the case. The learned Judge is requested to decide the disputes between the parties in the manner His Lordship may deem fit and proper.

However, to grant a breathing space to the appellant, we direct that the Kolkata Municipal Corporation (in short, 'KMC') shall not take any coercive step against the property in question till one week after the 'Summer Vacation' i.e., June 17, 2024. If, within that time period the appellant herein is able to obtain protective orders from the learned Single Judge, naturally the same will be operative. If the appellant is unable to do so, nothing will stop KMC from carrying out the order of demolition. Any proceeding taken by the

present appellant before the learned Single Judge must be upon notice to learned Advocates for the writ petitioner and KMC.

The appeal being MAT/959/2024 and the connected application being IA No: CAN/2/2024 are disposed of.

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.)**

**(Prasenjit Biswas, J.)**