

23.07.2024
ct. 6/SI. No.10
tkm

MAT 1007 of 2024
CAN 1 of 2024

Dr. Partha Sarathi Roy
Vs
Rahul Barik & Ors.

Mr. Saurabh Guha Thakurata
Ms. Nilanjana Sarkar
Mr. A Sarkar
...for the appellant
Mr. Tirthankar Dey
Mr. Arka Kr. Nag
...for BMC
Mr. Santanu Kr. Mitra
Mr. Subhabrata Das
...for the State
Ms. Debjani Sengupta
Ms. Paulomi Ghosh
...for respondent no. 1
Ms. Manisha Das
Mr. Sayantan Bose
...for respondent no. 9
Ms. G Kayal
...for respondent no. 10

1. Appellant has assailed an interlocutory order whereby the Hon'ble Single Bench has restrained Bidhannagar Municipal Corporation from giving effect to the order of vacating the premises till 31st July 2024 while directing the occupants not to use the premises for non-residential purpose.
2. Learned counsel contends by the order impugned the Hon'ble Single Bench had modified the order passed by the appellate court in MAT 2467 of 2023. He also contends that the writ petition at the behest of the occupants challenging the demolition of unauthorized construction is not maintainable in law.
3. We have considered the materials on record. Multiple writ petitions being WPA 20749 of 2023, WPA 27215 of 2022, WPA 27200 of 2022 and WPA 27217 of 2022 are pending consideration before the Hon'ble Single Bench with regard to the alleged unauthorized construction and/ or user of the premises being Premises No. DB-1,

Salt Lake City, Sector I, Kolkata 700064. During the pendency of these writ petitions, another writ petition was instituted by the tenants/occupants of the premises seeking similar relief.

4. Maintainability of the writ petition was challenged by the appellant/private respondent and the matter has been kept open for decision. Pending decision on the said issue, the Hon'ble Single Bench directed that the occupants need not be vacated till 31st July 2024. The order is purely an interlocutory one and was passed in aid of the main proceeding. No rights of the parties have been finally decided therein.
5. Hon'ble Single Bench has also taken into consideration observations of the co-ordinate Bench in MAT 2467 of 2023 wherein it was, inter alia, held without obtaining prior permission from the competent authority no commercial activity shall be carried on in the premises.
6. Under such circumstances, we do not find any reason to interfere with the order impugned. All issues including maintainability of the writ petition are kept open.
7. With these observations, appeal is dismissed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)