

25.06.2024
ct. 6/SI. No.11
tkm

MAT 1145 of 2024
CAN 1 of 2024

Omprakash Jaiswal
Vs.
Suraj Kumar Jaiswal & Ors.

Mr. Prasenjit Burman
Ms. Payal Koley
...for the appellant
Mr. Sandipan Banerjee
Mr. Ankit Sarkar
Mr. S Majumder
...for Howrah Municipal Crpn.
Mr. Aditya Mondal
...for respondent no. 1
Mr. Dipanjan Datta
Ms. Paramita Malakar (Dutta)
...for the State

1. Respondent no. 8/writ petitioner is an occupant of the building. He submits that the promoter had given an undertaking in an earlier appeal to make an alternative arrangement for occupants. He failed and neglected to do so and a co-ordinate Bench directed demolition of the building.
2. In this backdrop respondent no. 8/writ petitioner has approached this court and obtained an order of injunction. Appellant is before us praying for setting aside the said order.
3. Admittedly, the respondent no. 8/writ petitioner claims right under the promoter and is unable to justify the legality of the construction. Failure to make alternative arrangements by the promoter in breach of the undertaking given by him in the earlier appeal is a matter between the promoter and the occupants. That

cannot stand in the way of execution of the demolition order.

4. Respondent no. 8/writ petitioner has failed to make out a prima facie case in his favour. In absence of making out a prima facie case an order of injunction cannot be justified on the ground of loss suffered by a party.
5. Under such circumstances, we set aside the order of injunction and observe that demolition shall proceed in accordance with law.
6. Appeal and connected applications are accordingly dismissed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)