

Dd **10 20.11.2024**

MAT/1553/2024
With
IA NO: CAN/1/2024, CAN/2/2024
BINOY MAJUMDER
VS.
THE DURGAPUR EX-SERVICEMEN'S
CO-OPERATIVE HOUSING
SOCIETY LTD. AND ORS.

Mr. Saheb Banerjee, Advocate
... .. For the Appellant

Mr. Sharanya Chatterjee,
Mr. Ayaskanta Ghosh, Advocates
... .. For the ADDA

Mr. K. J, Yusuf, AGP
Mr. Sourav Chaudhuri, Advocates
... ...For the State

Mr. Subir Sanya,
Mr. Tanmoy Mukherjee,
Ms. Debawita Pramanik, Advocates
.. ...For the respondent nos. 1 and 2

Mr. Sandipan Banerjee,
Ms. Utsa Dutta, Advocates
.. ...For the Durgapur Municipal Corporation

Mr. Annit Sureka,
Mr. Biplob Das, Advocates
.. ...For the Special Officer

Mr. Srijan Nayak,
Ms. Rituparna Maitra, Advocates
...For copt. Election Commission

1. CAN 2 is an application for condonation of delay.
For the ends of justice causes shown in the application for condonation of delay are accepted as sufficient. CAN 2 of 2024 is disposed of.
2. Appellant is aggrieved by an order dated June 28, 2024 passed in WPA 15851 of 2024.

3. Learned advocate appearing for the appellant submits that the issue raised in the writ petition being WPA 15851 of 2024 was decided by the High Court in WPA 9212 of 2024 by the order dated April 10, 2024. He submits that an appeal was carried. Such appeal was disposed of by an order dated April 29, 2024.
4. Learned advocate appearing for the appellant submits that, although, interim order passed was limited, such interim order was extended subsequently. His client preferred appeal against order of extension also.
5. Respondents are represented.
6. It is submitted on behalf of the private respondent that, appellant filed an application of demurrer before the writ Court and that, the learned single Judge was pleased to fix the writ petition for hearing on a particular date.
7. In view of the submission that, the subject matter of the writ petition being WPA 15851 of 2024 is visited by issue of *res judicata*, we invited the learned advocate for the appellant to draw our attention to a copy of writ petition being WPA 9212 of 2024 which he does.
8. WPA 9212 of 2024 related to a challenge to the order of the commission of Durgapur Municipal Corporation dated January 18, 2024. The writ petition is not related to such order of Durgapur Municipal Corporation. We are not in a position to return a finding at this stage that, the issues raised in the present writ petition is barred on the principles issue of *res judicata*. Such an issue is kept open to be decided by the learned single Judge, if so raised by any of the parties.

9. Learned Single Judge exercised discretion in granting the interim relief. Impugned order contains reasons as to why interim relief was granted. Nothing is placed before us to suggest that the findings returned are perverse.
10. In such circumstances, we find no merit in the present appeal.
11. *MAT/1553/2024* along with connected applications are disposed of.
12. Since the writ petition is pending, it is clarified that none of the observations made by this Court will prejudice any of the parties. The observations were for the purpose of considering the merits of the appeal only.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)