

03.10.2024
Sl. No.21
akd

**M. A. T. 1939 of 2024
(CAN 1 of 2024)
(CAN 2 of 2024)**

[Smt. Dipali Shaw & Ors. -Vs- Smt. Parbati Shaw & Ors.]

Mr. Pritam Majumder
... .. for the appellants

Mr. Sourav Sen
... .. for respondent no.1/
writ petitioner

Mr. Rajib Mukherjee
Ms. Shreyasi Bhaduri
... .. for the Municipality
[Bhatpara Municipality]

Re : C. A. N. 1 of 2024

1. The application has been filed under Section 5 of the Limitation Act for condonation of delay.
2. Having considered the averments made in the application for condonation of delay and being satisfied with the explanation given, we are inclined to condone the delay in preferring the appeal.
3. The application being CAN 1 of 2024 is allowed.

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4. It is contended that the appellants were not heard before the Hon'ble Single Judge. They came to know of the proceedings when notice of hearing was served upon them by the respondent-Bhatpara Municipality. It is further contended the reports relied upon by the Hon'ble Single Judge are incorrect and the construction is as per the sanctioned plan.

5. Learned Advocate for the Bhatpara Municipality submits order has since been complied with. Hearing was done on 27.09.2024.
6. From the pleadings in the stay application it appears the appeal was preferred after the order had been complied with and the appellants had appeared before the authority concerned on 27.09.2024. Nothing is placed on record to show appellants had sought for an adjournment of the hearing and demolition order had been passed.
7. In such view of the matter, we give liberty to the appellants to assail the demolition order in terms of Section 218(3) of the West Bengal Municipal Act, 1993.
8. With the aforesaid observation, appeal is disposed of.
9. In view of disposal of the appeal, connected application being CAN 2 of 2024 is also disposed of.
10. Interim order, if any, shall stand vacated.
11. There shall be no order as to costs.
12. Let photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)