

D/L9
03.12.2024
Rohit
ct.no.26

MAT 1941 of 2024
With
IA No: CAN 1/2024, CAN 2/2024

Bapi Chakraborty
Versus
Tutul Chakraborty & Ors.

Mr. Chandrachur Chatterjee
...for the Appellant

Mr. Achintya Banerjee
Mr. Saurav Chaudhuri
....for the KMC

Mr. Shourjyo Mukherjee
Mr. Sourojit Dasgupta
Mr. Vishwarup Acharyya
....for Respondent Nos. 1 to 5

Appeal is directed against an order dated
May 1, 2024 passed in WPA 5225 of 2024.

Appeal is at the behest of the private
respondents in the writ petition.

Learned advocate appearing for the
appellants submit that an appeal was filed against
the order of demolition passed by the Special Officer
(Building) Kolkata dated December 5, 2022. He
submits that since the case records were not available
before the Tribunal the next date fixed in such appeal
is December 09, 2024.

Kolkata Municipal Corporation and the private respondents/ writ petitioners are represented.

Order passed by the Special Officer (Building) Kolkata Municipal Corporation exercising jurisdiction under Section 400(1) of the Kolkata Municipal Corporation Act, 1980 is appealable. Appellant before us preferred an appeal belatedly.

Be that as it may, since the appellant before us preferred an appeal against the order passed by the Special Officer (Building) Kolkata Municipal Corporation dated December 05, 2022, it would be appropriate to permit such appellant to pursue such appeal before the appellate albeit authority, in accordance with law.

Court is informed that the private respondent before us applied in the pending appeal before the Building Tribunal for addition of party therein.

As noted above there is also an application for grant of stay filed at the behest of the appellant before the Building Tribunal.

In order to balance the equities between the parties, it would be appropriate to direct KMC not to implement the order of the Special Officer (Building) Kolkata Municipal Corporation dated December 05, 2022 till January 31, 2025 or until further orders

whichever is earlier passed by the Building Tribunal on such issue.

Building Tribunal will consider the application for grant of stay as also any other application including the application for addition of party, without being prejudiced by any of the observations made by us in this proceeding including the grant of limited order of stay of the order of the Special Officer (Building) dated December 05, 2022.

Needless to say, we did not enter into the merits of the respective contentions of the parties. All points raised by respective parties are kept open. We did not enter into the merits in view of the fact that there exists a statutory alternative remedy and the appellant chose to file an appeal in terms of the statutory alternative remedy.

MAT 1941 of 2024 along with connected application are disposed of without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)