

10.12.2024
Item No.13
Ct. No.26
CHC
(disposed of)

M.A.T. 2050 of 2023
IA NO: CAN/1/2024

Rashmi Tigga
Vs.
Bikash Laha & Ors.

Mr. Debajyoti Basu, Sr. Advocate
Mr. Diptomoy Talukder, Advocate
Mr. Barun Chakraborty, Advocate
....for the appellant

Mr. Pingal Bhattacharyya, Advocate
Mr. Soumitra Ghosh, Advocate
Mr. Rajdeep Sinha, Advocate
...for the respondent no.1

1. Appeal is at the behest of the writ petitioner and directed against the order dated July 18, 2023 passed in WPA 28780 of 2022, WPA 28782 of 2022, WPA 9912 of 2021 and CPAN 702 of 2021.
2. CAN/1/2024 is an application for condonation of delay.
3. Department reports a delay of 49 days in making and filing the appeal.
4. Learned advocate appearing for the respondent no.1 in the appeal submits that, his client does not object to the application for condonation of delay being allowed.
5. In such circumstances, delay in making and filing the appeal is condoned.
6. CAN/1/2024 is disposed of.

7. Appeal is taken up for final consideration.
8. By the impugned order, the learned Single Judge directed the Commissioner, Asansol Municipal Corporation or his delegate to cause further spot inspection upon notice to all the necessary parties including the flat-owners and the developer/builder to ascertain the nature and extent of unauthorized construction. Learned Single Judge directed that if any unauthorized construction is detected necessary steps should be taken to deal with the same in accordance with law. Submission of the appellant herein was directed to be considered by the Commissioner, Asansol Municipal Corporation in presence of all parties.
9. Court is informed that, subsequent to the impugned order dated July 18, 2023 the Asansol Municipal Corporation acted thereon. Court is also informed that, hearing took place on October 23, 2024 and November 18, 2024 before Commissioner, Asansol Municipal Corporation. Result of such hearing is yet to be communicated to the parties.
10. Learned advocate for the appellant submits that the decision taken by the Asansol Municipal Corporation was not kept open with no remedy being granted by post decisional hearing. Moreover, the impugned order is in violation of earlier order passed by the High Court.

11. We are unable to accept such contention made on behalf of the appellant. All points raised by the appellant were kept open to be decided by the Commissioner, Asansol Municipal Corporation. Moreover, two hearing took place before Commissioner, Asansol Municipal Corporation after the impugned order. In fact, the appellant delayed in coming to the appeal Court.
12. Asansol Municipal Corporation is yet to take final decision subsequent to the impugned order. It would be in the realm of speculation, if we are to hold that Asansol Municipal Corporation pre-decided the issue.
13. In such circumstances, we find no merit in the present appeal.
14. M.A.T. 2050 of 2023 along with connected application is disposed of without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)