

28.11.2024
Item No.5
Ct. No.26
CHC
(disposed)

FMA 1330 of 2024
IA NO: CAN/1/2024

Shibnath Mukherjee
Vs.
Sudip Bhattacharya & Ors.

Mr. Sabyasachi Chatterjee, Advocate
Mrs. Sharmistha China, Advocate
Mr. Indranil Majhi, Advocate
Ms. A Sarkel, Advocate
....for the appellant

Mr. Arindam Banerjee, Advocate
Mr. Sirsanya Bandopadhyay, Advocate
Mr. Sumitava Chakraborty, Advocate
Ms. Bratati Pramanick, Advocate
....for the respondent no.1

Mr. Anirban Ray, Ld. G.P.
Ms. Munmun Ganguly, Advocate
Mr. Debangshu Dinda, Advocate
...for the State respondents

Mr. Sandipan Banerjee, Advocate
Mr. Ankit Sureka, Advocate
...for the Howrah Municipal Corporation

1. Appeal is directed against an order dated September 27, 2024 passed in WPA 17347 of 2024.
2. By the impugned order, learned Single Judge called upon Howrah Municipal Corporation to file a report by way of an affidavit with regard to the structural stability of the building in question and to compute the fees of the proposed regularization of the flats in question. Learned Single Judge also extended subsisting interim order for a period of three weeks months from the date of the order.

3. Learned advocate appearing for the appellant submits that, initially the interim order was obtained by the writ petitioner/private respondent without making the appellant as party respondent in the writ petition.
4. So far as the impugned order is concerned, he submits that, there subsists an order passed by a Learned Single Judge in respect of the subject premises where, the Learned Single Judge directed demolition of the unauthorized construction. He submits that, the order attained finality. The writ petitioner/private respondent despite knowing of the order passed in such writ petition did not prefer any appeal. A contempt petition is pending with regard to such order.
5. Learned advocate appearing for the appellant submits that, Learned Single Judge erred in calling for a report as to the structural stability as also the computation fees of the proposed regularization in view of the earlier order of the Learned Single Judge which attained finality.
6. Learned advocate for the appellant submits that, the writ petitioner/private respondent is guilty of suppressing the material fact before the Learned Single Judge who is decided WPA 17347 of 2024.
7. Howrah Municipal Corporation and the writ petitioner/private respondent are represented.

8. By the impugned order, Learned Single Judge required Howrah Municipal Corporation to submit a report by way of an affidavit with regard to the structural stability of the building in question and to compute the fees for proposed regularization of the flats in question. Learned Single Judge is yet to take final view on the subject of the lis pending.
9. In such circumstances, we are not minded to interfere with the impugned order dated September 27, 2024.
10. All points raised by the respective parties are kept open to be decided by the Learned Single Judge.
11. F.M.A. 1330 of 2024 along with connected application are disposed of without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)