

OD - 2

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction

ORIGINAL SIDE

APOT/224/2024
WPO/402/2024
IA NO.GA/1/2024, GA/2/2024
MD. OMAR HAATHI RAJA AND ORS.

-Versus-

SATYAM PANDEY AND ORS.

BEFORE :
THE HON'BLE JUSTICE JOYMALYA BAGCHI
And
THE HON'BLE JUSTICE APURBA SINHA RAY
Date : 13th August, 2024

Appearance :
Sk. Mustafi Rahaman, Adv.
...for the respondent no.1

Mr. Biswajit Mukherjee, Adv.
Mr. Sandiplan Banerjee, Adv.
Mr. Gopal Chandra Das, Adv.
..for KMC.

Ms. Sabnam De Bardhan, Adv..
Mr. Bikramjit Mondal, Adv.
..for the State.

The Court : Appellant contends that the order is an ex parte one and the case may be remanded for fresh hearing before the Hon'ble Single Bench. The crux of the dispute relates to alleged unauthorised construction on the plot. Appellant is one of the occupants of the unauthorised construction.

In order to assuage the grievance of the appellant, we called the Corporation to submit a report in regard to validity of the construction. The report is placed on record.

Report shows that the entire G+6 building is an unauthorised one and, accordingly, demolition order was passed and has been implemented in part.

Learned counsel for the appellant contests the report on the ground that the construction was made at the behest of one Md. Iqbal but the said person was neither notified or heard.

We have considered the grievance of the appellant. Md. Iqbal has not challenged the demolition order. Appellant is an occupant and is unable to place on record a shred of evidence justifying the validity of the construction. Under such circumstances, remanding the matter before the first court or the appropriate authority will not yield any fruitful result. Principles of natural justice are not straited jacketed formula but require to be examined in the factual matrix of every case on the anvil of prejudice. When the appellant is unable to place on record any material justifying the validity of an unauthorised G+6 building remanding the matter for fresh hearing would tantamount to permitting a seven storied unauthorised structure to stand and perpetuate serious threat to human life and property. Hence, we find no merit in the appeal and the same is accordingly dismissed.

There shall be no order as to costs.

(JOYMALYA BAGCHI, J.)

(APURBA SINHA RAY, J.)

