

18.08.2025.
Item No. 42.
Court No. 13
ap

M.A.T. No. 577 of 2025
With
I.A. No. CAN 1 of 2025
And
I.A. No. CAN 2 of 2025

Gorachand Mondal
Versus
Kolkata Municipal Corporation & Ors.

Mr. Sudhasatva Banerjee,
Mr. Jayanta Das,
Ms. Soumitra Ghosh.

...For the appellant.

Mr. Alok Kumar Ghosh,
Ms. Manisha Nath.

...For the KMC.

Mr. Arindam Banerjee, ld. Sr. Advocate,
Ms. Arpita Saha,
Ms. Rituparna Chatterjee,
Ms. Suchishmita Datta,
Mr. Dhruva Bahety.

...For the respondent nos.5 to 11.

Re: CAN 1 of 2025 (Condonation)

1. Affidavit-of-service filed in Court today be taken on record.
2. Although the delay of 545 days in filing the instant appeal is not sufficiently explained, the Court is still inclined to entertain the appeal on facts.
3. The application being CAN 1 of 2025 is allowed and disposed of.
4. There will be no order as to costs.

Re: MAT 577 of 2025

5. A short question that comes for consideration before this Court is the increase in height permitted for the Kolkata Municipal Corporation building to be

constructed by the private respondent/promoter. The original sanction plan permitted G+4 storied having height of 15.5 meters. The promoter thereafter gifted 2226.42 square meters of land to extend the width of the road in front of the building as also to connect the said road to an abutting road.

6. Since after the gift, the learned Single Judge was of the view that the promoter would fall under Category (iv) in the table set out in page 15 of the judgment. Such categorization would entitle the appellant to construct a building height of 25.5 meters.

7. Mr. Sudhasatva Banerjee, learned Counsel appearing on behalf of the appellant would argue that the promoter even after the gift would only be entitled to construct upto the height of 15.5 meters and would fall under Category (iii).

8. This argument cannot be accepted since the gifting of 2226.42 square meters to the Kolkata Municipal Corporation must enure a corresponding benefit to the promoter/respondent.

9. As per the Scheme of the Building Rules of the Kolkata Municipal Corporation when a private land is gifted to the State to improve infrastructure, there must be corresponding quid pro quo and benefit to the owner/promoter of the land.

10. The argument of Mr. Banerjee, learned Counsel for the appellant would lead to a zero benefit to the

promoter even after gifting of an additional property to the State which cannot be accepted.

11. For the reasons stated hereinabove, the impugned judgment and order dated 6th October, 2023 passed by a learned Single Judge of this Court calls for absolutely no interference. M.A.T. 577 of 2025 must fail and is hereby dismissed.

12. In view of dismissal of the appeal itself, the connected application being CAN 2 of 2025 shall also stand disposed of.

13. There will be no order as to costs.

14. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)