

22.09.2025.
Court No. 13
Sl. No. 13
pk/ap

MAT 741 of 2025
In
I.A. No. CAN 1 of 2025

Md. Mukhtar Khan
Versus
State of West Bengal and others

Mr. Partha Chakraborty,
Mr. P. K. De,
Ms. Priyanka Mukherjee.

...For the Appellant.

Mr. Arjun Roy Mukherjee,
Mr. Subhadeep Maitra

..For the State.

Mr. Biswajit Mukherjee,
Mr. Atis Kumar Biswas

... For the KMC.

Mr. Arindam Banerjee,
Mr. S. Siddique,
Mr. S. Alam

... For the respondent.

Mr. Amitabha Ghosh,
Ms. Arpita Paul Biswas

... For the added respondent.

1. The instant appeal is directed against judgment and order dated 02.04.2025 whereby and under the writ petition was disposed of without any order. The Court found that the KMC had sanctioned a building plan based on the application of the private respondent. In the said building plan, 1 cottah 7 chittak was directed to be left out as water body which was found fully complied with by the private respondent.
2. Counsel for the appellant/writ petitioner submits that the entire plot of land in Premise No. 7, 7A, 7B, 7C, 7E and

7F, Tiljala Place, P.S.-Karaya, Kolkata-17 comprises in 33 cottahs of land of which 17 cottahs is water body. He submits that the water body has been illegally filled up and the sanction of plan was obtained illegally.

3. Counsel for the KMC submits that it is based on the application of the private respondent/promoter and the declaration made therein, that the plan was sanctioned. It further transpires from the submissions of the parties that three civil suits were filed earlier by the appellant and were dismissed for default or not pressed. The fourth civil suit being Title Suit No. 963 of 2025 is now pending before the learned 2nd Civil Judge (Senior Division) at Alipore in connection with the disputes with regard to the nature and character of the land in question. There are also title disputes to the extent that the original owner was an Indian National and has subsequently migrated to Bangladesh having surrendered Indian citizenship.

4. The plaintiffs in the civil suit are the legal heirs of the alleged original owner. The applicant for leave to appeal claims that the entire property is a Thika tenanted property.

5. Given the quantum of disputed questions that arise in the instant proceedings, this Court is of the view that issues raised by the parties may be decided either in the pending civil suit being Title Suit No. 963 of 2025 or any other civil proceedings that the parties may take out in accordance with law.

6. The parties may take steps to be impleaded in the pending suit as well.

7. It is made clear that any construction made by the private respondents shall abide by the result of the pending civil suit or any civil or statutory proceedings that may be taken out by the parties in accordance with law.

8. The civil and statutory proceedings referred to hereinabove shall proceed uninfluenced by any observations made hereinabove except to the extent of the construction abiding by the result of such civil proceedings.

9. All questions including the title and locus of the parties are kept open to be decided in the civil proceedings.

10. With the aforesaid observations, M.A.T. 741 of 2025 shall stand disposed of modifying the impugned order to the extent indicated above.

11. In view of disposal of the appeal itself, the connected application being CAN 1 of 2025 shall also stand disposed of.

12. There will be no order as to costs.

13. 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.)