

25.07.2025.
Item No. 19.
Court No. 13
ap

M.A.T. No. 1069 of 2025
With
I.A. No. CAN 1 of 2025
And
I.A. No. CAN 2 of 2025

Sk. Saraf & Ors.
Versus
Nasir Ali Molla & Ors.

Mr. Ashim Ghosal,
Mr. Soupal Chatterjee,
Ms. Sucheta Banerjee,
Ms. Neha Gupta.

...For the appellants.

Mr. Gousul Alam,
Ms. Priyanka Jana.

...For the State.

Mr. M.R. Sarbadhikari,
Mr. Anupam Das,
Mrs. Mekhola Kar.

...For the respondent no.7.

Mr. Moloy Roy,
Mrs. Puja Agarwal.

...For the respondent no.1.

Mr. Sandipan Banerjee,
Mr. Ankit Sureka.

...For the HMC.

1. Affidavit-of-service filed in Court today be taken on record.

2. Leave to appeal is sought by a person, who claims to have purchased the property in question by an unregistered deed.

3. The facts of the case are that several attempts were made to serve a copy of the writ petition on the landlord, whose name was incorrectly mentioned as the respondent no.6 in the writ petition. Although the name of the respondent no.6 has been mentioned incorrectly, the name of her husband is correctly

mentioned in the cause title of the writ petition. The actual landlord is Rekha Debnath. The respondent no.6 is Reba Debnath. The mere error in the name, should not have stood in the way of the landlord accepting notice of the writ petition, when the subject matter is clear and explicit. The subject matter of the writ petition was a complaint by the respondent no.1 that there is unauthorized construction on the land of the respondent no.6.

4. Learned Counsel appearing on behalf of the Howrah Municipal Corporation submits that there is no sanction plan despite whereof construction has been erected. Based on the submissions of the parties, the Howrah Municipal Corporation was directed by the learned Single Bench to hear out the complainant and the person liable to pay taxes in respect of the property in question. Notices must have been issued by the Howrah Municipal Corporation before the Commissioner passed the order as regards the construction on the said property. He further submits that although it was submitted before the Single Judge initially that there was a sanction plan, subsequent instructions from his clients indicated that there was no sanction plan in respect of the said premises. No such valid plan has been filed before this Court.

5. Assertion by the proposed appellants that there is a sanction plan becomes completely irrelevant when the records of the Howrah Municipal Corporation

clearly indicate that there is no sanction plan in respect of the property in question.

6. In any event, the locus of the proposed appellants is wholly suspect.

7. Learned Counsel appearing on behalf of the landlord as well as the proposed appellants have vehemently asserted before this Court that the promoter of the property was never heard by the Howrah Municipal Corporation. As to how this fact has come to their knowledge is surprising to this Court. It would, therefore, imply and follow from the above submissions that both the proposed appellant and the landlord were aware of the proceedings before the Howrah Municipal Corporation.

8. In view of the submissions made on behalf of the Howrah Municipal Corporation that there is no sanction plan at all in respect of the subject property, this Court is not inclined to grant leave to the proposed appellant to prefer the instant appeal. He is a rank outsider and appears to have been set up by the landlord and/or promoter to avoid due process of law.

9. For the reasons stated hereinabove, the prayer for leave to prefer the instant appeal is rejected.

10. M.A.T. 1069 of 2025 must fail and is hereby dismissed.

11. In view of dismissal of the appeal itself, all the pending connected applications are also dismissed.

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.*)