

29.08.2025.
Item No. 17.
Court No. 13
ap

M.A.T. No. 2009 of 2022
M/s. Metaco India
Versus
The Kolkata Municipal Corporation & Ors.

Mr. Siddhart Mitra, ld. Sr. Advocate,
Mr. Sakya Sen, ld. Sr. Advocate,
Mr. Sounak Bhattacharya,
Mr. Sumitava Chakraborty,
Ms. Sormi Dutta.

...For the appellant.

Mr. Saptangsu Basu, ld. Sr. Advocate,
Mr. Gopal Pahari,
Ms. Mandeep Kaur.

...For the private respondents.

Mr. Achintya Kumar Banerjee,
Mr. Subhrangsu Panda.

...For the KMC.

1. Reply by the Kolkata Municipal Corporation to the objection filed by the appellant to their report is taken on record.
2. The instant intra court appeal is directed against the order dated 8th December, 2022 passed by a learned Single Judge of this Court in W.P.A. 2361 of 2020.
3. The writ petitioner, who is the appellant before this Court, asserts that the respondent/landlord had obtained a sanction plan for effecting construction of a building on the said premises and obtained extra FAR by citing the appellant's tenancy.
4. It is submitted by Mr. Mitra, learned Senior Advocate appearing on behalf of the appellant that his client has filed a suit and has obtained a decree against the landlord for a declaration that he is a

tenant in respect of the property being Title Suit No. 199 of 2015.

5. The respondent/landlord is also stated to have instituted civil proceedings where he has admitted that the appellant/writ petitioner is a tenant in respect of the said property in Title Suit No. 666 of 2020.

6. Both the suits were filed before the District Court at Alipore. There are appeals and cross-appeal pending against the decree passed in the said suits.

7. The writ petition was filed, inter alia, on the ground that since the respondent/landlord has obtained additional FAR from the Kolkata Municipal Corporation in the sanction plan essentially based on the tenancies in the premises and the tenants not having been inducted back in that premises, the Writ Court ought to have cancelled the sanction plan. The refusal by the landlord to recognize the tenants post construction would render the application for sanction of plan illegal having been obtained by fraud, suppression of material facts and/or a misstatement thereof.

8. As to whether, the appellant was a tenant, in fact, these are all disputed questions of facts pending adjudication in civil proceedings.

9. It has been submitted by the Counsel for the KMC and the landlord that construction on the property has been completed sometime in the year 2018 Counsel for the appellant, however, submits that the construction was completed only in the year 2022.

10. The genesis of the claim of the appellant/writ petitioner in the writ petition is a tenancy asserted by him. Since the issue of tenancy itself is pending decision in civil suits and appeals carried therefrom, the result of the said civil proceedings would have a vital bearing on the prayers made in the writ petition.

11. In that view of the matter, this Court reserves the right of the appellant/writ petitioner to reiterate and re-agitate his grievances in the writ petition, after a logical conclusion is reached in the civil proceedings between the appellant and the landlord.

12. The prayer for cancellation of any sanction plan at this stage or demolition of any construction of premises, would be premature.

13. It is made clear that the sanction plan obtained by the private respondents and the construction of any further action by the Kolkata Municipal Corporation including issuance of Completion Certificate would abide by the final result of the civil proceedings pending between the parties.

14. With the aforesaid observations, M.A.T. 2009 of 2022 shall stand disposed of.

15. There will be no order as to costs.

16. 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.)