

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

APOT/139/2024
WITH
EC/309/2019
IA NO: GA/1/2024, GA/2/2024

MARSHALL HOUSE OWNERS SOCIETY
VS
SRI SRI ISWAR GAJALKSHMI MATA THAKURANI AND ORS.

BEFORE:
The Hon'ble JUSTICE ARIJIT BANERJEE
AND
The Hon'ble JUSTICE OM NARAYAN RAI
Date : April 21, 2025.

Appearance:

Mr. Ayan Dutta, Adv.
Mr. Sumit Biswas, Adv.
...for the appellant.

Mr. Sushil Kumar Mishra, Adv.
Mr. Shailendra Kr. Mishra, Adv.
Mrs. Sabnam Laskar, Adv.
...for respondent no. 2.

Ms. Radhika Singh, Adv.
Mr. Sourojit Dasgupta, Adv.
...for respondent nos. 1 to 17.

Mr. Jishnu Chowdhury, Sr. Adv.
Mr. Iram Hassan, Adv.
Mr. Sanket Saraogi, Adv.
Mr. Himangshu Bhawsinghka, Adv.
...for the respondent no. 18.

Mr. Akash Munshi, Adv.
Mr. Lalit Baid, Adv.
Mr. Tamoghna Saha, Adv.
...for the added party.

The Court: Re: **GA No. 1 of 2024:-** This is an application for condonation of delay of 8 days in presenting the appeal. Causes shown being sufficient, the delay is condoned.

Accordingly, GA No. 1 of 2024 is disposed of.

Re: **APOT No. 139 of 2024 with GA/2/2024:-** By consent of the parties, the appeal and the connected application are taken up for hearing together. The members of the appellant society claim to be sub-sub-lessees

of the property in question. Apparently, the defendants in the suit being the tenant and a sub-tenant under whom the members of the appellant society claim right, title and interest, suffered an eviction decree. Some of the members of the appellant society have now intervened in the execution proceedings. They filed an application seeking leave to deposit certain sums of money and assert their right in respect of the suit property. Accordingly, they filed GA No. 12 of 2024 before the learned Single Judge.

It appears that by an order dated January 18, 2024, the learned Single Judge had directed the applicant therein to serve a copy of the application on all the parties. On February 19, 2024, the parties were directed to exchange affidavits. It further appears that when on March 5, 2024, several applications including the application of the present appellant came up before the learned Single Judge, it was found that the applicant therein being the present appellant had failed to effect service on all the parties. The learned Judge observed that the applicant is not serious about proceeding with the application and dismissed GA No. 12 of 2024. Hence, this appeal.

We have heard the learned counsel for the parties. Learned Advocate for the decree holder/respondent strongly disputes the *locus standi* of the present appellant to maintain any application in respect of the suit property. He also denies that the members of the appellant society have any right, title or interest in respect of the suit premises.

We are not inclined to enter into the merits of the case. Although the learned Single Judge may have been justified in dismissing the appellant's application by reason of inaction on part of the appellant, taking a lenient view, we allow this appeal so that the parties may have their disputes

resolved on merits before the learned Single Judge. The order under appeal is set aside only to the extent the same dismisses GA No. 12 of 2024, subject to the appellant paying costs assessed at Rs.20,000/- to the decree holder/respondent within a week from date (April 28, 2025).

Accordingly, APOT No. 139 of 2024 along with GA No. 2 of 2024 are disposed of.

(ARIJIT BANERJEE, J.)

(OM NARAYAN RAI, J.)