

04.02.2026
Court No.13
Item No. 2
sp

MAT 35 of 2026
With
CAN 1 of 2026

Rup Narayan Agarwal
Vs.

Novel Developments Private Limited (formerly known as
Nobel Trexim Private Limited & Ors.

Mr. Srijib Chakraborty,
Mr. Aditya Mondal,
Mr. Anish Gupta,
Mr. Washim Akhtir Defadar.

... For the appellant.

Mr. Surajit Nath Mitra, Id. Sr. Adv.,
Mr. Satadeep Bhattacharya,
Mr. Saptarshi Datta,
Ms. Sriparna Mitra,
Ms. Srinjita Ghosh,
Mr. Pourish Kanti Pal,
Mr. Debdut More.

.. For the respondent no. 1.

Dr. Madhusudan Saha Ray.

.. For the CESC Limited.

Mr. Biswajit Mukherjee,
Mr. Debanjan Mukherjee.

.. For the KMC.

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

2.The instant appeal is directed against judgment and order dated 7th January, 2026 passed by a Single Bench of this Court.

3.The dispute between the parties revolves around the desire of the respondent no. 1/promoter to shift an existing commercial meter of the appellant to a portion of

the newly constructed property where other new meters are located.

4. In an earlier round of litigation before the Single Bench being WPA 18133 of 2023 by order dated 10th August, 2023, an attempt by the respondent no. 1/promoter to seek shifting of the appellant's commercial meter from his existing premises on an allegation of hazard was rejected with contempt, by a Single Bench. The respondent no. 1/promoter was permitted to apply for a fresh meter to cater to the residence of the newly constructed building. The premises of the appellant was independent to that of the respondent no. 1 earlier. Pursuant to orders passed by the KMC the two premises being No. 5(appellant) and 4(promoter) were amalgamated.

5. The appellant, however, is enjoying a civil decree passed in T.S. No. 1563 of 2010 by the learned Civil Judge (Junior Division), 4th Court at Alipurduar, South 24-Parganas against being evicted without following the due process of law. The tenancy of the appellant was declared against the landlord who is not a party to the instant proceeding.

6. The Court was curious and hence asked the learned counsel for the CESC as to whether a portion of the premises where the appellant's meter is located is

hazardous or required in law, any shifting for any other reason.

7.Learned counsel for the CESC has categorically stated that the appellant's meter room was partially dilapidated which has since been restored to be fit. There is no bar on the appellant keeping maintaining his meter at the place where it is already located.

8.Apart from the decision dated 10.08.2023 (supra), it is clear and explicit otherwise that the respondent no. 1/promoter has no right, title or interest to seek shifting of the appellant's meter to the meter room at the newly constructed premises. There is yet another constraint that the appellant's meter is a commercial meter. The meter and connection obtained by the respondent no. 1/promoter for the residents of his building, are residential.

9.Counsel for the CESC submits that the load on the residential premises may have to be increased if the commercial meter of the appellant is shifted to that of the residence of the newly constructed building.

10. Be that as it may, the respondent no. 1/promoter has absolutely no business right, title or interest to seek transfer of appellant's meter to his own meter room. The respondent no. 1 must have constructed the building in question with his eyes open of the existing meter position and the tenancy by the appellant.

11. The portion of the impugned judgment and order, particularly, paragraph 12 at page 6 thereof where the consent of the appellant for such shifting of such meter is recorded, has been very fairly conceded by Mr. Mitra, learned Senior Counsel for the respondent no. 1/promoter, and counsel for the CESC, as an incorrect recording.

12. Mr. Chakraborty, learned counsel for the appellant has vehemently submitted that this client nor himself had given any such concession or consent before the Single Bench. The parties are ready with the youtube extract of the video recording of the proceedings before the Trial Judge wherefrom, according to them, it would appear that no such consent was given by him or his client.

13. Having regard to the above, this Court is of the view that the impugned judgment and order cannot be sustained.

14. The impugned judgment and order dated 7th January, 2026 is hereby set aside. MAT 35 of 2026 is allowed.

15. Consequently, CAN 1 of 2026 shall stand disposed of.

16. Needless to mention that since no affidavits have been called before the Single Bench or by this Court,

none of the allegations contained in the writ petition before the Single Bench and the stay application before this Court shall be deemed to have been admitted by the respondents except those which are matters of record, and referred to hereinabove.

17. There shall be no order as to costs.

18. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)