

09.04.2026
Court No. 12
Item No. 13
Sandip

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

M.A.T. 609 of 2026
IA No : CAN 1 of 2026

Md. Obaidur Rehman & Anr.
-Versus-

**The Kolkata Municipal Corporation &
Ors.**

Mr. Dinendra Nath Chatterjee,
Mr. P. Sengupta,
Mr. B. Sengupta

.....for the appellants

Mr. Gopal Chandra Das,
Ms. Ananya Das

....for the KMC.

- 1) We are not inclined to interfere with the order passed by His Lordship.
- 2) The appellants are aggrieved by the order dated February 25, 2026 passed in W.P.A. 23632 of 2025.
- 3) The appellants claim to be the tenants in respect of the premise which was sought to be rebuilt and allegedly a plan was sanctioned by the Kolkata Municipal Corporation. Prayer was made for cancellation of the sanction building plan dated March 2, 2024. The appellants filed civil suits before the learned Civil Judge, (Junior Division), which were registered as Title Suit No. 1522 of 2021, Title Suit No. 1553 of 2021 and Title Suit No. 1655 of 2021, inter alia, praying for declaration of tenancy and other consequential reliefs.
- 4) The appellants were unsuccessful in obtaining any ad interim order, protecting their

rights. The learned Civil Judge denied the prayer for ad-interim order. Aggrieved, separate Misc. Appeals were filed. The Misc. Appeals were also dismissed. Three revisional applications were filed from those orders. Those, civil revisions were disposed of by a common order with a direction upon the learned Civil Judge, Junior Division, 6th Court at Alipore to dispose of the injunction application filed by the appellants in connection with the civil suits.

5) His Lordship took judicial notice of the fact that the Civil Court had deemed it fit not to pass any ad interim order with regard to the suit property, meaning thereby, the appellants had not been successful in convincing the Court at the prima facie stage that they were in possession.

6) The civil suits were filed at a time when the construction was going on, pursuant to the sanction plan. The specific case of the appellants was that they had been ousted from the property and the sanction was obtained behind their back. Thus, whether the appellants were in possession of the property as tenants, is a question which has to be decided in the suit and, prima facie, proof thereof can only be ascertained when the application for injunction is disposed of.

7) Under such circumstances, His Lordship has rightly held that the right vested on the parties to construct, upon obtaining sanction from the Corporation could not be taken away at this stage when the appellants had not been protected by the civil court and there is a cloud over their claim of tenancy.

8) Under such circumstances, the appeal and the connected application are dismissed.

9) The appellants may resort to such other legal protections that are available in law.

10) Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)