
(2018) 03 CAL CK 0018
In the Calcutta High Court
Case No : CAN 1705 of 2018 In MAT 248 of 2018

PRASENJIT KARAR

APPELLANT

Vs

SRI AMAL MONDAL & ORS.

RESPONDENT

Date of Decision : 12-03-2018

Acts Referred:

Howrah Municipal Corporation Act, 1980 — Section 177(1)

Citation : (2018) 03 CAL CK 0018

Hon'ble Judges : SANJIB BANERJEE, J;RAJARSHI BHARADWAJ;J

Bench : Division Bench

Judgement

Let the two affidavits filed in Court today be taken on record.

The appellant, Prasenjit Karar, is directed to add Sujit Karar as a party in the present appeal by amending the cause title of the Memorandum of

Appeal as well as the application for stay.Â Upon amendment of the cause title, a copy of the Memorandum of Appeal as well as the application for

stay together with all the orders passed by this Court shall be served upon the added respondent, namely, Sujit Karar.

Let the report in the form of an affidavit filed in Court today on behalf of the Howrah Municipal Corporation be taken on record.

Perusing the same, it appears that the case of unauthorized construction was detected and a stop-work notice was issued by the Howrah Municipal

Corporation upon invoking the provision of section 177(1) of the Howrah Municipal Corporation Act, 1980, on 17th June, 2014. A hearing notice was

issued to the offenders, namely, the appellant herein and the added respondent, Sujit Karar, on 19th June, 2014.

The following paragraphs from the report in the form of an affidavit filed in Court today reveal, inter alia, that ultimately the issue regarding

unauthorized construction was placed before the Borough Committee in its meeting held on 25th September, 2014, wherein it was decided that the

case for unauthorized construction against the appellant as well as the added respondent was to be withdrawn on payment of appropriate retention

fees:-

â??(a) The unauthorized construction was detected and a stop-work notice under section 177(1) of the Howrah Municipal Corporation Act, 1980

was issued on June 17, 2014 in favour of the offender, Sujit Karar and a hearing notice was issued to the offenders, Sujit Karar alongwith Prasenjit

Karar, being the private respondent nos. 7 and 8 to the writ application and also the writ petitioner, Amal Mondal, on June 19, 2014.

(b) On the date of hearing, i.e. on June 25, 2014, the appellant herein, Prasenjit Karar, appeared and submitted before the HMC authorities that he has

constructed a single-storied building and admitted his fault and said Sujit Karar also submitted and admitted his fault stating that he has also

constructed a G+2 storied building and the writ petitioner, Amal Mondal, stated before the authorities concerned that the offenders have constructed

their buildings without any sanctioned plan.

(c) The said application was followed by self-demolition notice, so issued in favour of both the offenders, i.e. Prasenjit Karar and Sujit Karar, on

August 13, 2014.

(d) After receiving the notice of self-demolition, both the offenders, Sujit Karar and Prasenjit Karar, submitted the as made plan against the

said demolition proceeding on September 6, 2014 thereby specifying the actual area of unauthorized construction, where the appellant herein,

Prasenjit Karar, declared that he has constructed unauthorized single-storied building with stairhead room measuring about 37.70 square meter and

Sujit Karar declared that he has also constructed unauthorized G+2 storied building measuring about 51.728 square meter.

(e) The matter was then placed in the Borough Committee meeting for appropriate decision and in the meeting held on September 25, 2014, it was

decided to withdraw the BMR case for unauthorized construction made by said Sujit Karar and Prasenjit Karar on payment of appropriate retention

fees.

(f) The offender, Sujit Karar, deposited the retention fees amounting to

Rs.61,180/- and Prasenjit KararÂ deposited the retention fees to the tune of

Rs.46,080/- and both the deposits have been made on September 29, 2014.â??

Considering the factual aspect of the matter, which is culled out from the report in the form of an affidavit, we are of the view that the impugned

judgment and order dated 29th January, 2018, passed by the learned Single Judge in WP 3323 (W) of 2015 (Amal Mondal vs. The Howrah Municipal

Corporation & Ors.) is required to be stayed until further orders and is accordingly stayed.

List this matter for further consideration under the same heading, a fortnight hence.