

09.06.2021
Item No.8
Court No.11
KB.

**MAT No.490 of 2021
with
I.A. No. CAN 1 of 2021**

**Smt. Chandana Banerjee
-Vs-
Uttarpara Kotrung Municipality & Ors.
(Via Video Conference)**

Mr. Siddhartha Banerjee
Mr. Chiranjib Saha

.... For the appellant.

Mr. Rajib Mukherjee
Mr. Soumabha Banerjee

.... For the Municipality.

Mr. Banerjee, Learned Counsel, appears in support of the appeal and the connected application.

This appeal is directed against the order of the Hon'ble Single Bench dated 22nd March, 2021 in the writ petition, also filed by the present appellant and numbered as WPA 9401 of 2020.

The Hon'ble Single Bench found that the construction impugned as illegal in the writ petition was instead adequately within the terms of the applicable West Bengal Municipal (Building) Rules, 2007 (for short the 2007 Rules) as amended by the Notification dated 26th February, 2017.

The Hon'ble Single Bench therefore disposed of the writ petition, however, permitting the writ

petitioner/the present appellant to approach the Municipality in the event of any future deviation.

On behalf of the Respondents/Municipality, Mr. Rajib Mukherjee, Learned Counsel, appears.

Mr. Mukherjee submits that the limited issue of an alleged deviation from the sanctioned plan as raised against the private respondent by the appellant has been cogently dealt with by the Hon'ble Single Bench. It is submitted that the Hon'ble Single Bench was assisted in arriving at its findings on the basis of a Report of the concerned Sub-Assistant Engineer as submitted before the Chairperson, Board of Administrators (*BOA*) of the said Municipality.

It is thus submitted by the Respondents/Municipality that the prayers in the appeal are not maintainable.

Mr. Banerjee raises an additional submission by way of reply to the effect that the petitioner/appellant is questioning the very sanction of the building permission under the Pradhan Mantri Abas Yojana (*PMAY*) Scheme by the Municipal Engineering Directorate, Chinsurah, District-Hooghly.

Upon a careful consideration of the materials placed, this Court notices that the point on sanction of the building under the *PMAY* Scheme was neither urged before the Hon'ble Single Bench nor any relief in the writ petition claimed against the *PMAY* authorities.

This Court is limited by jurisdiction to enlarge the scope of the appeal beyond the points addressed before the Hon'ble Single Bench.

This Court is of the further view that the additional submissions placed on behalf of the appellant beyond the adjudication by the Hon'ble Single Bench are misconceived.

Accordingly, this appeal is without merits.

MAT 490 of 2021 with **CAN 1 of 2021** are thus **dismissed**.

The dismissal of this appeal shall not however prevent the appellant from taking steps as already directed by the Hon'ble Single Bench.

Since affidavits are not called for allegations made are therefore deemed to be denied.

All concerned parties shall act in terms of the copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Kausik Chanda, J.)

(Subrata Talukdar, J.)