

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Joymalya Bagchi
And
The Hon'ble Justice Gaurang Kanth

**MAT 1115 of 2024
With
CAN 1 of 2024
M/s. Apace Construction & Anr.
Vs.
Asok Roy Chowdhury & Ors.**

For the appellants	: Mr. Arka Maiti Mr. Aniruddha Singh Ms. Saloni Bhattacharyya
For the respondents/writ petitioners	: Mr. Pratik Dhar, Sr. Adv. Mr. Samir Halder Ms. Chandima Ray
For the Panihati Municipality	: Mr. Rabindra Nath Dutta Mr. Soumyajit Bhatta Mr. Prabir Majumder
Heard on	: 23.07. 2024 and 29.07.2024
Judgment on	: 29.07.2024

Joymalya Bagchi, J. :-

1. Appellants have assailed the order dated 17.05.2024 whereby the writ petition has been held to be entertainable under Article 226 of the Constitution.

2. During hearing Mr. Maiti does not seriously challenge maintainability of the writ proceeding but contends the finding recorded in paragraph 24 of the impugned order that the reasoned order was passed by the Chairman and not the Board of Councillors is incorrect. The Chairman had acted as a delegatee of the Board.
3. Mr. Dhar contends the reasoned order was passed by the Chairman beyond jurisdiction as the unauthorised construction could not have been regularised.
4. Mr. Dutta for Municipality submits the demolition order with regard to one of the floors was passed and has been given effect to.
5. As the issue of maintainability has not been seriously assailed before us, we dispose of the appeal clarifying the observation made in paragraph 24 of the impugned order that the reasoned order was passed by the Chairman and not the Board of Councillors is tentative and shall not have any binding effect during final hearing of the matter.
6. All issues apart from maintainability are kept open.
7. The appeal and the connected application are disposed of.
8. Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all formalities.

I agree.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)