

12.11.2025
Court No.13
Item No.12
pk

**FMA 884 of 2024
CAN 2 of 2025**

**Subhas Banerjee and others
Vs.
The State of West Bengal and others**

Mr. Shyamal Chakraborty,
Mr. Debajyoti Mondal,
Mr. Achintya Kumar Mukherjee
... for the appellants.

Mr. Tapas Kumar Ghosh,
Mr. Tanmoy Chowdhury
... For the respondent nos. 2 and 3.

Mr. Satyajit Talukdar,
Mr. Arindam Chatterjee
... For the respondent nos. 5 and 6.

Re: CAN 2 of 2025

1. Sufficient grounds are available to explain the absence of the appellants and/or their Counsel on 03.11.2025.
2. The said order is recalled.
3. Accordingly, CAN 2 of 2025 is allowed.
4. There will be, however, no order as to costs.

Re: FMA 884 of 2024

1. The appellants are aggrieved by an order dated 22.11.2023 passed by the Single Bench of this Court.
1. The grievance of the appellants before the Single Bench was that the Bansberia Municipality is forcefully raising constructions over the private property of the appellants/writ petitioners. It is

further alleged that a portion of the said property comprises in a water body.

2. The learned counsel for the appellants/writ petitioners submits that the Bansberia Municipality without any authority of law is effecting construction there on. The property-in-question has not been acquired by the State in favour of the Municipality.
3. It appears that the Municipality was not represented before the Single Bench. The Single Bench, therefore, directed the Bansberia Municipality to conduct inspection on the property in presence of the appellants and look into the records and pass appropriate orders on the grievance of the appellants.
4. Being aggrieved by the aforesaid order, the appellants/writ petitioners have filed the instant appeal, inter alia, on the ground that the Single Bench could not have relegated the issue of title of the appellants to the Municipality when the Municipality itself is guilty of alleged illegal act. According to counsel for the appellants, the Municipality has been permitted to sit in appeal over its own decision.
5. It appears from the submissions of the learned counsel for the Municipality that in terms of the order of the Single Bench, the appellants were duly notified of a proposed inspection which notices were refused. When an inspection has been conducted, the appellants did not cooperate in the inquiry. The

Bansberia Municipality has, therefore, held that its action of effecting construction are justified and in accordance with law.

6. Let a copy of reasoned order along with annexures be made available to counsel for the appellants and the KMDA.
7. The appellants shall be entitled to prefer an appeal against the said order under sub section 3 of Section 218 of the West Bengal Municipal Act, 2006 within a period of ten days from date. If such an appeal is filed, the Civil Court is directed to dispose of the same within a period of three months from the date of filing of the appeal. No adjournment shall be granted to any of the parties.
8. Let the status quo be maintained with regard to the property-in-question by the Municipality and the same shall abide by the result of the decision of the Civil Court.
9. It is made clear that the Civil Court shall proceed to decide the matter uninfluenced by any observation made herein or by the Single Bench of this Court.
10. With the aforesaid observations, the instant appeal is disposed of. Consequently all applications, if any, are disposed of.
11. A copy of the reasoned order of the Bansberia Municipality is kept with the record.

12. 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.)