

28.04.2025
Court No.13
Item No. 18
sp

FMA 248 of 2025
With
CAN 1 of 2025
Aniruddha Paul
Vs.
The State of West Bengal & Ors.

Ms. Pampa Dey (Dhabal),
Mr. Biswarup Chatterjee
...for the appellant.

Mr. Nilotpall Chatterjee,
Ms. Tuli Sinha
...State.

Mr. R.N. Chakraborty
..for the Municipality.

1. The instant appeal is directed against judgment and order dated 17th December, 2024 passed by a Single Bench of this Court in WPA 6105 of 2024.
2. Admittedly, there is a partition suit between the appellant and the private respondent. There is an order of status quo passed by the Civil Court. During the subsistence of the said order.
3. The private respondent is stated to have constructed a boundary wall on what he considers his premises, which exceeds the building rules by about 6 inches. Learned Single Bench found that the deviation is rather miniscule and has found certain discrepancy between the West Bengal

Municipal Building Rules, 2007 and Section 2(3) of the West Bengal Municipal Act, 1993.

4. Without going into the said discrepancy in the law found by the learned Single Judge, this Court satisfied with the reasoning of the learned Single Judge that the deviation, if at all, by the private respondent is about 6 inches and, therefore, miniscule.
5. The order having been passed in discretionary exercise of power under Article 226 of the Constitution of India calls for no interference.
6. Hence, FMA 248 of 2025 along with CAN 1 of 2025 shall stand dismissed.
7. It is, however, made clear that any violation of the Civil Court's order, by the private respondent may be pursued by the appellant, in accordance with law and the provisions thereunder.
8. There shall be no order as to costs.
9. 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.)