

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

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

FMA 156 of 2025

With

IA No.: CAN 1 of 2025

Sri Goutam Ghosh

Vs.

The State of West Bengal & Ors.

For the appellant : Mr. Sanjib Seth, Advocate

For the State : Mr. Ayan Banerjee, Advocate
Ms. Ujani Pal Samanta, Advocate

For the Howrah Municipal Corporation: Mr. Sandipan Banerjee, Advocate
Mr. Ankit Sureka, Advocate

Heard & Judgment on : January 28, 2025

DEBANGSU BASAK, J.:-

1. Appeal is directed against an order dated December 10, 2024 passed in WPA 12364 of 2024.
2. Appeal is at the behest of the appellant.
3. By the impugned order, learned Single Judge dismissed the writ petition.

4. Appellant approached the Writ Court with the allegation that, the construction made at the locale was beyond the sanctioned plan.
5. Learned Single Judge, on such allegation, appointed a learned Advocate as the Special Officer to inspect and submit a report.
6. Learned Special Officer submitted a report before the learned Single Judge.
7. Learned Advocate appearing for the appellant draws the attention of the Court to the report so submitted. He submits that, the construction was not in accordance with the building rules. In support of such contention, he submits that, the requisite space required to be left between a construction and the boundary wall was not left by the private respondents, there were other deviations and that, the property of the private respondents did not contain a water tank.
8. Howrah Municipal Corporation and the State are represented.
9. We perused the report of the learned Special Officer as also the impugned order.
10. Learned Special Officer did not take into consideration the building rules in its correct perspective. Measurement of a boundary wall is required to be made at the midpoint of such boundary wall. Learned Special Officer proceeded to measure the boundary wall at various places and found the space to be less than the requisite space. However, nothing is placed on record to suggest that, the space between the boundary wall at the construction at the midpoint is not

in accordance with the building rules. So-called deviations are not established either before the learned Single Judge or before us.

11. Non-existence of a water tank cannot be said to be in violation of a sanction granted. Significantly, there exists a sanction for the building constructed.
12. In such circumstances, no ground of interference is made out in appeal.
13. **FMA 156 of 2025** along with all connected applications are dismissed without any order as costs.

(Debangsu Basak, J.)

14. I agree.

(Md. Shabbar Rashidi, J.)

(AD)