

03.11.2025
Court No.13
Item No.21-22
pk

MAT 138 of 2025
Avik Banerjee

Vs.

The State of West Bengal & Ors.

With

COT 39 of 2025

Gautam Saha

Vs.

Avik Banerjee & Ors.

Mr. Probal Kumar Mukherjee, Sr. Adv.

Mr. Sounak Bhattacharya,

Mr. Sounak Mandal,

Mr. Anirban Saha Roy,

Ms. Bipasha Bhattacharyya.

...for the appellant.

Mr. Debasish Ghosh,

Mr. Subhajit Roy,

Mr. Akash Dutta

... for the private respondent in MAT 138 of 2025 and
cross-objector in COT 39 of 2025.

Mr. Srijan Nayak,

Mrs. Rituparna Maitra.

..for the KMC.

1. The appellant/writ petitioner and the respondents have filed writ petitions against one and another. The appellant has complained to the KMC that the entire building constructed by the cross objector/writ petitioner is without any sanctioned plan. The KMC has filed a report stating that sometime in the year 1981 the cross objector's mother obtained a sanctioned plan.

Construction was effected based on such sanctioned plan.

2. This was disputed by the writ petitioner/appellant.

3. Mr. Probal Kumar Mukherjee, learned senior advocate representing the writ petitioner/appellant would submit that the sanctioned plan contains a different municipal address than the report of the KMC and also there is a third municipal premises referred to in the report. He, therefore, submits that the main structure allegedly constructed by the cross objector in 1981 does not correlate the municipal premises relied upon by the cross objector.

4. The appellant/writ petitioner got launched in the proceedings after he discovered that the cross objector constructed a galvanized iron shed on the roof of the premises without a sanction.

5. The KMC concurs with the appellant that the aforesaid galvanized iron shed is ex facie illegal and required a sanctioned plan.

6. To this extent, the appellant/writ petitioner's case ought to be partially sustained and the stop work notice issued by the KMC in respect of the said galvanized iron shed must be upheld. The KMC shall be entitled to take all steps in accordance with law with regard to the galvanized iron shed.

7. Insofar as the grievance of the appellant/writ petitioner with regard to the ground+1 structure, this Court is of the view that the appellant must approach the respondent no. 3/the Municipal Commissioner with an appropriate prayer for enquiry as to whether the said ground+1 structure has sanction plan or not.

8. For the aforesaid purpose, the respondent no. 3 shall enquire into the previous municipal numbers given to the property from time to time within a period of 45 days from the date of filing of the application before the respondent no. 3. The cross objector shall also have all statutory remedies against the same.

9. Having regard to the above, the impugned order shall stand modified. MAT 138 of 2025 and COT 39 of 2025 are disposed of. Consequently, all connected pending applications are also disposed of.

10. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Rai Chattopadhyay, J.)