

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

Present:
The Hon'ble Justice Debangsu Basak
And
The Hon'ble Justice Smita Das De

FMA 381 of 2025
With
IA No.: CAN 1 of 2025

Meheboob Hossain Ansari @ Mehbub Hossain Ansari
Vs.
The State of West Bengal & Ors.

For the appellant : Mr. Rudranil De, Advocate
Mr. Ziaul Haque, Advocate
Mr. Jahangir Hossain, Advocate
Mr. Soumo Charan, Advocate

For the respondent no. 10 : Mr. Prosenjit Mukherjee, Advocate
Ms. Babita Pramanik, Advocate

For the respondent nos. 11, 12, 13, 15, 17 & 18. : Ms. Bani Israil, Advocate

Heard & Judgment on : March 11, 2025

DEBANGSU BASAK, J.:-

1. Appeal is at the behest of the writ petitioner and directed against an order dated January 13, 2025 passed in WPA 17974 of 2024.
2. Appellant alleged unauthorized construction at the behest of the several private respondents in the writ petition.
3. Learned Single Judge found the writ petition not to be maintainable in view of misjoinder of cause of action since the writ petitioner made blanket allegations of unauthorized construction against all the private respondents. Learned Single Judge was not satisfied with the *bona fides* of the writ petition also.
4. Private respondents are represented.
5. By consent of the parties the appeal is taken up for final hearing.
6. As noted above, the writ petitioner alleges unauthorized construction at the behest of several private respondents.
7. The issue as to whether, unauthorized construction exists as alleged or not requires a decision.
8. Defence of the private respondents is that, some of the private respondents possess sanction for the construction and the others claim that such constructions were made under the Pradhan Mantri Awas Yojana.
9. The validity, legality and sufficiency of such defence is required to be decided by the appropriate authority. Construction made under the

Pradhan Mantri Awas Yojana *ipso facto* does not obviate the requirement to comply with the existing building law.

10. So far as the *bona fides* of the writ petitioner is concerned, it is alleged as against the writ petitioner that, the writ petitioner is a relative of a person whose unauthorized construction got demolished at the behest of the respondent no.10 herein.
11. The relative of the writ petitioner may or may not be guilty of unauthorized construction but that does not entitle any of the private respondents to make any construction which is unauthorized.
12. Therefore, we are unable to accept the view that the writ petitioner lacks *bona fides*.
13. The nature of the unauthorized constructions alleged are such that it requires consideration by the Board of Councillors of the Municipality concerned under the provisions of the West Bengal Municipal Act, 1993.
14. In such circumstances, the Board of Councillors of the concerned Municipality will decide the issue of unauthorized constructions, in accordance with law. No doubt, the Board of Councillors will afford an opportunity of hearing to the private parties. Board of Councillors is at liberty to hear such other parties and consult such documents that it deems appropriate. Board of Councillors will endeavour to conclude the proceedings within a period of six weeks from the date of

communication of this order. No doubt, they will pass a reasoned order which they will communicate to the parties forthwith thereafter.

15. All issues raised with regard to the unauthorized construction are kept open.

16. **FMA 381 of 2025** and **IA No.: CAN 1 of 2025** are disposed of.

(Debangsu Basak, J.)

17. I agree.

(Smita Das De, J.)