

Court No. 6
(265719)

24.06.2025
(A 1387)
(S. Banerjee)

CO 610 of 2025

Raghunath Pal
Vs.
Panihati Municipality & Ors.

CAN 1 of 2025
CAN 2 of 2025

Mr. Bhaskar Seth
Mr. Mukesh Kumar Gupta
...for the petitioner

Mr. Kallol Bose
Mr. Atreya Chakraborty
...for the opposite parties

This application under Article 227 of the Constitution of India is at the instance of the owner of the impugned construction and is directed against an order dated February 10, 2025 passed by the learned Civil Judge (Jr. Division), 2nd Court at Barrackpore in Municipal Appeal No. 4 of 2024. By the order impugned the prayer for stay of operation of the order of demolition passed by the authorities of the Panihati Municipality, stood rejected.

Learned advocate appearing for the petitioner submits that the petitioner has raised several factual and legal issues in the municipal appeal which are required to be decided.

Mr. Basu, learned advocate appearing for the opposite parties submits that the entire first floor of the building is illegal as the same was not constructed with the approval of the concerned municipality. He further submits that in this application under Article 227 of the Constitution of India, the petitioner has not made any averment as to why, according to the petitioner, the impugned construction is a legal one.

In reply the learned advocate appearing for the petitioner submits that in the municipal appeal the petitioner has specifically raised a ground that the construction was made with due approval of the municipality.

Considered the submissions made by the learned advocates for the respective parties and perused the materials placed.

Record reveals that an order of demolition of the entire first floor measuring an area of 54 square meters, more or less, was passed upon holding that the impugned communication is an illegal one as the same was made without any approval from the municipal authority and the petitioner was directed to demolish the same within the time limit indicated in the said order.

Section 218(3) of the West Bengal Municipal Act provides a remedy of appeal against an order of demolition passed by the Board of Councillors of the municipality.

The petitioner has availed of the statutory appeal remedy. The learned Judge, by the order impugned, rejected the stay application and fixed a date for hearing of the appeal.

If during the pendency of the appeal the order of demolition is executed and/or implemented, the municipal appeal pending before the learned Civil Judge (Jr. Division), 2nd Court at Barrackpore will become infructuous.

At this stage Mr. Bose, learned advocate appearing for the opposite parties submits that a direction be passed upon the learned trial judge to dispose of the municipal appeal expeditiously.

This court is informed by the learned advocate appearing for the petitioner that June 26, 2024 is the next date fixed for hearing of the municipal appeal.

Therefore, this court is of the considered view that interest of justice would be subserved if the learned Civil Judge (Jr. Division), 2nd Court at Barrackpore is directed to dispose of the Municipal Appeal No. 4 of 2024 expeditiously.

Accordingly, CO 610 of 2025 stands disposed of by requesting the learned Civil Judge (Jr. Division), 2nd Court at Barrackpore to take up the hearing of the Municipal Appeal No. 4 of 2024 on the next date fixed, if the same is otherwise ready for hearing, and to make an endeavour to see that the same is disposed of as expeditiously as possible, preferably within a period of eight weeks from the next date fixed, without granting any unnecessary adjournment to either of the parties.

The order of demolition passed by the Board of Councillors, Panihati Municipality on July 19, 2024, shall remain stayed till the disposal of the Municipal Appeal No. 4 of 2024.

(Hiranmay Bhattacharyya, J.)