

30.04.2025
Sl. No. 10
Ct No. 3
SG

WPA 6143 of 2025

**Soumitra Modi & Anr.
Vs
The State of West Bengal & Ors.**

Mr. Sabyasachi Chatterjee,
Mr. Badrul Karim,
Mr. Aritra Ghosh.
... ... for the petitioners

Mr. Sandipan Banerjee
Mr. Ankit Sureka.
... ... for the HMC

Mr. S.D. Sengupta,
Ms. S.B Mallick,
Mr. D. Barman.
... ... for respondent nos. 5 & 6

1. Affidavit-of-service filed in Court today is taken on record.

2. This writ petition has been filed by the petitioners seeking various reliefs in respect of a flat allegedly purchased by them on the third floor of a four-storied building situated at premises no. 5/8/2, Kaliprasad Chakraborty Lane, P.O. Kadamtala, P.S. Bantra, Howrah – 711101. The petitioners claim to have purchased the said flat from Joy Maa Tara, a proprietorship firm owned by respondent no. 5, based on a sanctioned plan allegedly issued by the respondent-municipality. However, the sanctioned plan was obtained only for the construction of a ground +

partially the one storied building. Despite this, respondent no. 5 proceeded to construct a G+4 storied building, thereby indulging in unauthorized construction.

3. In view of the unauthorized construction, the respondent-municipality issued a demolition order dated 22.02.2022. A writ petition, being WPA 14295 of 2023, was earlier filed by one Soumitra Mukherjee challenging the said demolition order. This Court, vide its order dated 15.01.2024, upheld the said demolition order and granted a period of three months to the occupants to vacate the premises. An appeal, being MAT 720 of 2024, was preferred against the said judgment, but the same was dismissed.

4. The petitioners also lodged a complaint dated 09.03.2025 before the Bantra Police Station, seeking registration of an FIR against the accused persons, including respondent no. 5. It is in this backdrop that the present writ petition has been filed, seeking the following reliefs:

A) An Ad-Interim Order staying the demolition process initiated against the property situated at 5/8/2, Kaliprasad Chakraborty Lane, PO Kadamtala, PS Bantra, Howrah-711101 by virtue of the impugned order passed by the Hon'ble Justice Amrita Sinha until disposal of the instant matter.

B) A writ in the nature of Mandamus directing the respondent authority and its men, agents and sub-ordinates to direct the Howrah Municipal Corporation to do a physical inspection and measurement of the property and submit a comprehensive report for the same in order to enable the petitioner to claim compensation in the future.

C) A writ in the nature of Mandamus directing the respondent authority and its men, agents and sub-ordinates to assign any Investigative Agency to investigate the transaction of the funds and documentation done during the mutation process conducted by the Howrah Municipal Corporation.

D) Ad-Interim order in term of Prayer (A) to (B),

5. This Court has heard learned Counsel for the petitioners and the respondents and has perused the materials placed on record.

6. It is an admitted position that the sanctioned building plan was restricted to the ground floor and a partial first floor. Despite the same, respondent no. 5 has constructed a G+4 storied building without any lawful sanction. The demolition order issued against the unauthorized construction was upheld in WPA 14295 of 2023, and the appellate court has confirmed the same in MAT 720 of 2024.

7. In light of the foregoing, this Court is not inclined to interfere with the demolition process initiated pursuant to the Order passed by the Co-ordinate

Bench, which has been affirmed by the Hon'ble Division Bench. Accordingly, prayer clause (A) cannot be entertained.

8, As regards prayer (B), the petitioners seek a report from the respondent-municipality regarding the extent of unauthorized construction, allegedly to facilitate a future claim for damages. However, in view of established judicial pronouncements, any construction beyond the sanctioned plan is deemed illegal and unauthorized. Furthermore, the petitioners' agreement of sale clearly specifies the area and dimensions of the flat purchased. This Court is not inclined to examine the aspect of damages, if any, that the petitioners may be entitled to claim against respondent No. 5. In such circumstances, this Court is not persuaded to exercise its writ jurisdiction merely to assist the petitioners in collecting evidence to support a private claim.

9. With respect to prayer (C), it is noted that the petitioners have already lodged a complaint before Bantra Police Station. If the police authorities fail to take action thereupon, it is open to the petitioners to pursue their remedies in accordance with law, including recourse to appropriate provisions under

the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023.

10. For the reasons stated above, this Court is not inclined to grant any of the reliefs sought in the present writ petition.

11. Accordingly, the writ petition stands dismissed.

12. Since no affidavits have been filed by the respondents, the allegations made in the writ petition shall not be deemed to have been admitted.

13. There shall be no order as to costs.

14. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Gaurang Kanth, J.)