

1<sup>st</sup> July, 2025

Item no.DL 5  
Court No. 13

Asraf, A.R.(Ct.)

**In the High Court at Calcutta**  
**Civil Appellate Jurisdiction**  
**Appellate Side**

Case No. **MAT 512 of 2025**  
**with**  
**CAN 1 of 2025**

*In the matter of :*  
**TAPAN KUMAR DEY**  
**VS.** *.... Appellant*  
**MUNMUN BANERJEE and OTHERS**  
*....Respondents*

*For the Appellant :*  
**Mr. Jishnu Chowdhury, Senior Advocate**  
**Mrs. Amrita Panja Moulick**  
**Ms. Shivangi Agarwal**  
*....Advocates*

*For the Respondent nos. 1 to 25 :*  
**Mr. Suddhasatva Banerjee**  
**Mr. Aurin Chakraborty**  
**Ms. Debjani Sengupta**  
*....Advocates*

*For the Respondent no.30 :*  
**Mr. Saptarsi Banerjee**  
**Mr. Amal Kumar Saha**  
**Mr. Iresh Paul**  
**Mr. Shivam Debnath**  
*....Advocates*

*For the Respondent / Howrah Municipal Corporation :*  
**Mr. Sandipan Banerjee**  
**Mr. Ankit Sureka**  
*....Advocates*

1. The original writ petition being WPA 4689 of 2022 (Tapan Kumar Dey Vs. The HMC & Ors.) was filed seeking demolition of unauthorized structures situated at 69 & 71, Kashinath Chatterjee Lane, Shibpur, Howrah - 711102.

2. The Single Bench by the order dated 25<sup>th</sup> March, 2022 disposed of the writ petition directing the Howrah Municipal Corporation (for short, "HMC") to conduct an inspection of the premises and the unauthorized construction and to take steps in accordance with law. Accordingly, a report dated 21<sup>st</sup> April, 2022 was prepared in which it was found by the HMC that a large number of unauthorized structures both old and new were existing on the said premises. It was also found that a deity of Lord Shiva (a shivlinga) which was not there when 'stop work' notice was issued, was placed at the premises of an unauthorized club house structure, before the date for a joint inspection.
3. Prior to the construction of the new structures, the open land was being used as a playground and the unauthorized old structure in the form of a club house was existing thereat most likely since the year 1986.
4. The HMC, pursuant to the said report dated 21<sup>st</sup> April, 2022 (supra) directed demolition of the unauthorized structures under the provisions of Section 177(5) of the Howrah Municipal Corporation Act, 1980 vide its order dated 24<sup>th</sup> June, 2022.

5. Challenging the order of demolition, a local Club called Shibpur Nimtala Sporting Club (the club) filed a writ petition being WPA 13133 of 2022.
6. Another Single Bench by order dated 26<sup>th</sup> July, 2022, dismissed the writ petition finding no reason to interfere with the order of the HMC dated 24<sup>th</sup> June, 2022 (supra).
7. On an appeal against the said order dated 26<sup>th</sup> July, 2022 being MAT 1306 of 2022, the Club offered to demolish the unauthorized construction on its own. The Club was permitted by order dated 26<sup>th</sup> November, 2024 eight weeks time to self-demolish the unauthorized construction indicated in the order dated 21<sup>st</sup> April, 2022 (supra). The appeal was accordingly disposed of.
8. The HMC, at the behest of an order dated 2<sup>nd</sup> January, 2024 passed in the said appeal, had submitted a report dated 7<sup>th</sup> February, 2024 indicating that both old and new structures on the said premises were completely unauthorized.
9. The Division Bench of this Court by its order dated 26<sup>th</sup> November, 2024 (supra) had therefore clearly found that the appellant / Club therein had accepted unauthorized construction on the said premises and had agreed to self-demolish the same. There was a rider attached that in the event, the writ petitioners / Club therein did not effect

demolition as undertaken, the HMC would be at liberty to effect demolition of all unauthorized construction thereat.

10. Lo and behold a 3<sup>rd</sup> writ petition being WP 5887 of 2025 is filed by the wife of an office bearer of the club, wherein a story of the existence of a temple thereat since 1950 and casual mention thereof being made in the HMC order dated 21<sup>st</sup> April, 2022 (supra). A further story is cooked up that the demolition of the new constructions and pillars would affect the temple.
11. Based on the submissions of the respondents and notwithstanding the directions of the Division Bench dated 20<sup>th</sup> November, 2023, the HMC was directed to further inspect the premises. The said order dated 20<sup>th</sup> March, 2025 is impugned in these proceedings.
12. Curiously, when the Club undertook before the Division Bench to self-demolish the unauthorized construction on 26<sup>th</sup> November, 2024 (supra), the existence of any temple or deity was not mentioned. This Court has no hesitation to hold that the story of an existence of a temple since 1950 hogwash and gibberish.
13. The photographs annexed to the stay petition clearly indicate that the one *shivlinga* and one

Nandi had been recently placed in the premises and had no manner of existence prior thereto.

14. The Club itself appears to be existing since 1986. They cannot possibly have knowledge of any sanctioned plan for the alleged temple of the year 1950. The writ petitioner respondents and the club are seeking to weaponize religious sentiments to perpetrate a gross illegal and hoodwink the court and the State.
15. In the above circumstances, this Court is of the clear and unequivocal view that the Single Bench was clearly misled by the respondents into passing the order in question.
16. In view of the above, the earlier order of this Court dated 19<sup>th</sup> June, 2025 clearly appears to have been passed after having been misled by the respondents. The writ petition is in gross abuse of process of law.
17. The matter can be decided even without calling for affidavits as the pleadings, reports and orders on record are sufficient to indicate the actual state of affairs, to this Court. The prayer made by Mr. S. Banerjee, learned counsel appearing for the writ petitioner respondents, for an opportunity to file affidavit is, therefore, rejected.

18. In the circumstances aforesaid, this Court directs Howrah Municipal Corporation to forthwith demolish all the unauthorized construction (both old and new) situated at Holding Nos.69 and 71, Kashinath Chatterjee Lane, Ward No.33, Post Office-Shibpur, Police Station-Chatterjeehat (formerly Shibpur), Howrah- 711102, more fully described in, inter alia, their report dated 7<sup>th</sup> February, 2024.
19. The directions of the earlier Division Bench dated 26<sup>th</sup> November, 2024 (supra) shall be followed in letter and spirit by the HMC.
20. The Deputy Commissioner of Police, Howrah Police Commissionerate shall extend all necessary cooperation to the HMC to effect demolition of the unauthorized structures in the aforesaid premises as and when requested by the HMC.
21. The cost for police assistance and demolition shall be recovered by the HMC from the writ petitioner and the club.
22. The appeal is **allowed** and the impugned order stands set aside.
23. Consequently, nothing survives in the writ petition. WPA 5887 of 2025 is hereby dismissed.

24. MAT 512 of 2025 shall stand disposed of. Consequently, all connected applications, if any, shall also stand disposed of.
25. All parties shall act on the basis of server copy of this order duly downloaded from the official website of this Court.
26. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

**(Rajasekhar Mantha, J.)**

**(Ajay Kumar Gupta, J.)**