

24.07.2025
Item no. 8.
Court No.6.
AB

C. O. 1717 of 2025

**Atanu Sarkar
Vs
Uluberia Municipality & Ors.**

Mr. R. Banerjee,
Mr. Shibasis Chatterjeefor the Petitioner.

Mr. G. C. Bandopadhyay
Mr. Sourav Goswamifor the Municipality.

Mr. Arijit Dasfor the Opp. Party No.6.

This application under Article 227 of the Constitution of India is at the instance of the owner of an impugned construction and is directed against an order dated May 7, 2025, passed by the learned Civil Judge (Jr. Division), 1st Court, Uluberia, Howrah in Misc. Appeal No.1 of 2025.

By the order impugned, the prayer for ad interim injunction was considered and refused. The petitioner was directed to issue notice upon the opposite parties as to why the prayer for temporary injunction shall not be allowed.

Mr. Banerjee, learned advocate appearing for the petitioner submits that challenging an order of demolition, the petitioner has preferred a Misc. Appeal under Section 218(3) of the West Bengal Municipal Act. He submits that unless an interim protection is granted, the appeal would become infructuous.

The Municipality and the opposite party no.6 are represented by their respective learned Counsel.

Learned advocates appearing for the Municipality and the opposite party no.6 submit that the petitioner herein had made illegal construction in violation of the sanctioned building plan. He further submits that since the petitioner could not make out any prima facie case for an interim order, the learned Judge of the Appellate Court was right in rejecting the prayer for ad interim injunction.

Mr. Banerjee, learned advocate appearing for the petitioner seriously disputes the submission made by the learned Counsel for the Municipality and the opposite party no.6.

However, it appears from the impugned order that the prayer for ad interim injunction was refused and the petitioner was directed to issue notice upon the opposite parties and a date has been fixed for appearance of the respective parties.

Learned advocates for the opposite parties assure this Court that they shall enter appearance in Misc. Appeal No.1 of 2025 within a week from the date of receipt of server copy of this order.

Considering the fact that the petitioner has challenged an order of demolition by preferring a statutory appeal, this Court is inclined to grant an interim protection in favour of the petitioner. If during

the pendency of the Misc. Appeal, the order of demolition is executed/ implemented, the Misc. Appeal would become infructuous.

There is also substance in the submission made by the learned advocates for the Municipality and the opposite party no.6 that the hearing of the Misc. Appeal should be expedited.

There shall be an order of stay of operation of the order of demolition dated 30.04.2025 passed by the Municipality till the disposal of the Misc. Appeal No.1 of 2025.

In view of such order, nothing remains to be decided in the application for temporary injunction filed by the petitioner in Misc. Appeal No.1 of 2025 and the same stands disposed of by virtue of this order.

Learned Civil Judge (Junior Division), 1st Court, Uluberia, Howrah is requested to make an endeavour to fix an early date of hearing of the appeal and to dispose of the same as expeditiously as possible but preferably within a period of four months from the next date fixed without granting any unnecessary adjournment to either of the parties.

With the aforesaid observation, C.O. No. 1717 of 2025 stands disposed of.

(Hiranmay Bhattacharyya, J.)

