

18.07.2025.
Item Nos. 2 to 4.
Court No. 13
ap/sp

**M.A.T. No. 818 of 2025
With
I.A. No. CAN 1 of 2025**

**Md. Surabuddin Peada
Versus
Md. Asgar Ali Peada & Ors.
With
F.M.A. No. 965 of 2024
With
I.A. No. CAN 1 of 2024**

**Asgar Ali Piada
Versus
State of West Bengal & Ors.
With
M.A.T. No. 897 of 2025
With
I.A. No. CAN 1 of 2025
And
I.A. No. CAN 2 of 2025
And
I.A. No. CAN 3 of 2025**

**Md. Surabuddin Peada @ Piyada & Anr.
Versus
State of West Bengal & Ors.**

Mr. Sabyasachi Chatterjee,
Mr. Akashdeep Mukherjee,
Mr. Soumyadeep Nag,
Mr. Badrul Karim,
Ms. Soumali Das.

...For the appellant in MAT 818 of 2025.

Mr. Biswaroop Bhattacharya,
Mr. Sumitava Chakraborty,
Ms. Neelanjana Ghorui.

..For the respondent nos. 1
in M.A.T. No. 818 of 2025
and FMA 965 of 2024.

Mr. Sirsanya Bandopadhyay,
Mr. Arka Kumar Nag,
Mr. Tirthankar Dey.

...For BMC.

Mr. Jayanta Samanta,
Mr. Supriya Majumder.

..For the State in MAT 818 of 2025.

Mr. Ziaul Islam,
Ms. Bineeta Bhattacharjee.

...For the State in MAT 897 of 2025.

Mr. Sabyasachi Chatterjee,
 Mr. Akashdeep Mukherjee,
 Mr. Soumyadeep Nag,
 Ms. Soumali Das.
 ..For the respondent no. 9 in FMA 965 of 2024.

Re: F.M.A. 965 of 2024

1. Learned Counsel appearing on behalf of the appellant, Mr. Bhattacharya submits on instructions that the appellant in F.M.A. No. 965 of 2024 does not wish to press this appeal any further.
2. Written instructions of the appellant addressed to his learned Advocate be kept with the record. The appellant is also personally present before this Court.
3. In that view of the matter, F.M.A. 965 of 2024 shall stand dismissed as not pressed.
4. There will be no order as to costs.

Re: MAT 818 of 2025 & MAT 897 of 2025

5. The challenge in the instant appeals is to an order dated 6th May, 2025 passed by a Single Bench of this Court. The Single Bench found that the Commissioner of Bidhannagar Municipal Corporation passed an order under Section 266 of the West Bengal Municipal Act dated 28th January, 2025 rejecting the representation of the appellants and directing demolition of unauthorized construction effected by the appellants as found in the inspection report.
6. The Single Bench further noted that a due opportunity was given to the appellants to carry out self-demolition which was not done. Therefore, the Bidhannagar Municipal Corporation was duty bound

to comply with the demolition and collect charges thereof from the appellants.

7. Mr. Sabyasachi Chatterjee, learned Senior Counsel for the appellants has placed a notification of the Department of Urban Development Municipal Affairs dated 6th May, 2025, which are stated to apply to all municipalities in the State.

8. The object and purpose of placing the aforesaid notification is not understood.

9. Reference is thereafter made to the provisions of Rule 82 of the KMC Building Rules, 2009 which defined and exclude from the record of the KMC Act, 'existing buildings'.

10. Mr. Chatterjee next places Section 259 of the West Bengal Municipal Corporation Act, 2006 and submits that the concept of existing a new building is available even in the aforesaid Act.

11. This Court, however, notes that most of the arguments advanced today by the learned Senior Counsel, Mr. Sabyasachi Chatterjee, have not been advanced either in the representation made by the appellants before the Bidhannagar Municipal Commissioner or before the Single Bench. The question of these arguments being entertained at this stage does not and cannot arise. In any event Section 259 of the West Bengal Municipal Corporation Act under Part-VII, Chapter-XIV refers to applications for erecting new buildings in place of old buildings. The

same cannot be treated as *pari materia* with the provisions of Section 82 of the Kolkata Municipal Corporation Rules which refers to existing buildings as opposed to new structures.

12. An appeal is stated to have been preferred under Section 266 of the Municipal Building Tribunal against the order dated 28th January, 2025. Admittedly, the Act requires a person aggrieved by an order of the Commissioner to prefer such appeal before the Building Tribunal within 30 days thereafter. The purported appeal dated 11th June, 2025 against the order dated 28th January, 2025 has been filed after the impugned order was passed and to enable the appellants to delay the implementation of the order of the Commissioner and to frustrate the order of the Single Bench. Such conduct cannot be permitted.

13. In view of the aforesaid observations, this Court is of the clear view that the appellants are only trying to prevent the obvious and continue to perpetuate illegally of having made unauthorized construction.

14. The Municipal Commissioner shall take an immediate steps to ensure demolition of all unauthorized construction that a subject matter of the order dated 28th January, 2025 passed by the Commissioner, Bidhannagar Municipal Corporation, positively within a period of one month from date.

15. With the aforesaid observations, MAT 897 of 2025 and MAT 818 of 2025 shall stand disposed of.

16. The Eco Park Police Station shall render all assistance to the Commissioner of Bidhannagar Municipal Corporation to carry out the aforesaid order without demur. Sufficient forces shall be deployed by the Eco Park Police Station to enable the Bidhannagar Municipal Corporation to carry out the aforesaid order.

17. There shall be no order as to costs.

18. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)