

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:

THE HON'BLE JUSTICE DEBANGSU BASAK
And
THE HON'BLE JUSTICE PRASENJIT BISWAS

MAT 860 OF 2025
WITH
I.A. NO.: CAN 1 OF 2025
I.A. NO.: CAN 2 OF 2025

MOYNA BIBI KHATUN @ MOYNA KHATUN BIBI
Vs.
THE STATE OF WEST BENGAL & ORS.

For the Appellant	:	Mr. M.A. Samad, Advocate Ms. Priyanka Sharma, Advocate Mr. Taher Ahamad, Advocate
For the State	:	Mr. Sk. Md. Galib, Sr. Govt. Advocate Ms. Sujata Mukherjee, Advocate
For the Respondent Nos. 10 to 13	:	Mr. Golam Mastafa, Advocate Mr. Rejaul Alam, Advocate Mr. Subir Sabud, Advocate

Hearing & Judgment On : July 2, 2025

DEBANGSU BASAK, J.:

1. CAN 1 of 2025 is an application for condonation of delay.
2. State and the private respondents are represented.

3. Department reports a delay of 187 days.
4. For the ends of justice and the causes shown in the application for condonation of delay, the delay in making and filing the appeal is condoned.
5. **CAN 1 of 2025 is allowed.**
6. CAN 2 of 2025 is an application seeking appropriate orders pending in the appeal.
7. Appeal is directed against an order dated November 7, 2024 passed in WPA 25938 of 2024.
8. By the impugned order, learned Single Judge, noticing the complaint of unauthorized construction, directed the appropriate authority to enter into the issue and decide on the same.
9. It appears from the records that pursuant to the impugned order, the Sub-Divisional Magistrate, Tamluk, Purba Medinipur considered the issue and passed a reasoned order on April 8, 2025.
10. By such reasoned order, the Sub-Divisional Magistrate, Tamluk, Purba Medinipur found that, there was encroachment on Government property by construction of a pucca house. Authorities also found that at the time of the enquiry, construction was ongoing. In such circumstances, Sub-Divisional Magistrate, Tamluk, Purba

Medinipur authorized demolition of the illegal construction and to recover the cost of demolition from the encroacher.

11. Learned advocate appearing for the appellant submits that the writ petitioner relied upon forged documents to obtain the impugned order. He submits that there are other encroachments on Government property and that, such illegal encroachments and constructions are also to be removed.
12. So far as the contention of forged document is concerned, we find that, the learned Single Judge did not enter into the dispute as to title of immovable property as it was not required. The issue before the learned Single Judge was whether, there was an illegal encroachment resulting in unauthorized construction on Government property, or not. Such issue was directed to be decided, by the learned Single Judge. The authority who decided such issue, found not only encroachment on Government property but also unauthorized construction thereon.
13. The order impugned stands acted upon and worked prior to the present appeal being filed. The impugned order in this appeal is dated November 7, 2024. Acting in terms of such order, Sub-Divisional Magistrate passed an order dated April 8, 2025. The same is yet to be challenged. The present appeal was affirmed on June 12, 2025.

14. In such circumstances, we find no ground to interfere with the impugned order.

15. **MAT 860 of 2025** along with **CAN 2 of 2025** are **dismissed** without any order as to costs.

(Debangsu Basak, J.)

16. I agree.

(Prasenjit Biswas, J.)

(Rohan)