

19 20.06.2025
NB Ct. 06

CO 2138 of 2025

Gopal Pramanik
Vs.
The Board of Councilors Contai Municipality & Ors.

Mr. Tanmoy Mukherjee,
Mr. Soumava Santra.
...for the petitioner.

Mr. Aniruddha Chatterjee Sr.Adv.,
Mr. Debabrata Ray.
....for the OP Nos.3&4.

Mr. Nilanjan Adhikari
...for Contai Municipality.

This application under Article 227 of the Constitution of India is at the instance of the owner of the impugned construction and is directed against an order being No.4 dated 11th June 2025 passed by the learned Civil Judge (Junior Division), 1st Court at Contai, District Purba Medinipur in Misc. Appeal No.02 of 2025.

By the order impugned, the application for stay of operation of the demolition order dated 26th February, 2025 stood rejected.

Mr. Mukherjee, learned advocate appearing for the petitioner submits that the petitioner has made out a prima facie case for an interim order. He further submits that unless an order of stay of operation of the demolition order is passed, the Miscellaneous Appeal will become infructuous.

Mr. Chatterjee, learned senior advocate appearing for the opposite parties submits that the petitioner failed to make out any prima facie case. He submits that the impugned

construction is an illegal one as the construction was made by the petitioner in excess of the portion owned by the petitioner.

Mr. Nilanjan Adhikary, learned advocate who usually represents the Contai Municipality is requested to appear in this matter for the Municipality. Let the appointment of Mr. Adhikary be regularised by the concerned authority.

A copy of the application under Article 227 of the Constitution of India has been served upon Mr. Adhikary in course of hearing of the civil revision application.

An order dated 22nd April, 2024 was passed in *WPA 28379 of 2023*, directing the Municipality to take into consideration the legal representation dated November 30, 2023 in accordance with law after giving a reasonable opportunity of hearing to all the necessary parties for production of documents in support of their respective stand. A reasoned order was directed to be passed and communicated to the parties immediately thereafter. If any consequential step was required to be taken, the Municipality was directed to do so.

Pursuant to the said order, the Board of Councillors of Contai Municipality passed an order dated 26th February, 2025.

After going through the said order, this Court finds that the revised building plan dated 04th June, 2021 issued to the petitioner herein was cancelled with immediate effect and the same was declared as void *ab initio* and the petitioner was directed to cease and halt all construction activities over the subject plot and the Board also directed the petitioner to

dismantle the construction made in terms of the revised plan within the time limit indicated in the said order.

In the event of failure on the part of the petitioner to dismantle the unauthorised construction, the opposite party was given liberty to apply before the Board for appointment of a surveyor and/or engineer for earmarking the unauthorised construction with measurement.

By the order of the Board of Councillors, the revised plan stood cancelled and consequently the petitioner was directed to dismantle all the constructions raised in terms of the revised plan. Such an order is under challenge in the Miscellaneous Appeal. If during the pendency of the Miscellaneous Appeal the order of demolition is implemented, the Miscellaneous Appeal will become infructuous.

In view thereof, this Court is inclined to pass an interim order.

At this stage, Mr. Chatterjee, learned senior advocate appearing for the opposite parties submits that the learned Civil Judge may be directed to dispose of the Miscellaneous Appeal expeditiously. From the order sheets appended to this application, this Court finds that 30th June, 2025 has been fixed for hearing of the Miscellaneous Appeal.

By the order impugned, the appellant was required to file requisites.

Mr. Adhikary, learned advocate undertakes that the Contai Municipality shall enter appearance in the appeal within a week from this date. There shall be an order of stay of operation of the order dated 26th February, 2025 passed by the

Board of Councillors, Contai Municipality till the disposal of Misc. Appeal No.02 of 2025.

In view thereof, nothing survives to be decided in the stay application filed in the Miscellaneous Appeal. With the consent of the learned advocates for the respective parties, the application for stay filed by the petitioner before the learned Civil Judge (Jr. Division), 1st Court at Contai stands disposed of.

The Contai Municipality is directed to produce the records and all other materials in connection with the proceeding under Section 217 read with Section 218 of the West Bengal Municipal Act, 1993 in the case of *Bidhan Roy & Another. Vs. Gopal Pramanik before the learned Civil Judge* on the next date fixed for hearing of the appeal.

The learned Civil Judge (Jr. Divn.) 1st Court at Contai is requested to take up the hearing of the appeal on the next date fixed i.e. on 30th June, 2025 and make an endeavour to dispose of the same as expeditiously as possible but preferably within a period of eight weeks from the next date fixed without granting any unnecessary adjournments to either of the parties.

Mr. Chatterjee, learned senior advocate appearing for the opposite parties raises an objection against the maintainability of the Miscellaneous Appeal.

It is however made clear that this Court has not gone into the merits of the claims and counter claims of the respective parties in the Miscellaneous Appeal and all points including the point of maintainability of the appeal is kept open

to be considered by the learned Civil Judge while hearing the said appeal.

With the above observations and directions, **CO 2138 of 2025** is disposed of.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)