

04.07.2025
Sl. No.3
akd

**W. P. A. 13613 of 2025
(CAN 1 of 2025)**

[Bijay Kumar Shaw & Ors. -Vs- Howrah Municipal Corporation & Ors.]

Mr. Kalyan Bandyopadhyay .. Sr. Advocate
Mr. Soumya Majumder .. Sr. Advocate
Mr. Arka Kumar Nag
Mr. Rahul Kumar Singh
Mr. Snehasish Dey
... .. for the petitioners

Mr. Biswaroop Bhattacharya
Mr. Ratikanta Pal
... .. for respondent no.7

Mr. Sandipan Banerjee
Mr. Ankit Sureka
... .. for the HMC

Mr. Diptendu Narayan Banerjee
Mr. Soumen Chatterjee
... .. for the State

Re : C. A. N. 1 of 2025

1. The petitioners have filed the present application seeking modification of the order dated 20.06.2025 passed by the Predecessor Bench of this court, praying, in effect for an extension of the interim order granted therein.
2. The Predecessor Bench, vide order dated 20.06.2025, disposed of the writ petition with the following directions :-

“ The petitioners challenge a demolition notice scheduled for June 20, 2025, in respect of premises No. 35/9, Hamiduddin Munshi Lane, Howrah. The petitioners claim to be tenants of the said premises.

It appears that a Division Bench of this Court, by an order dated February 17, 2023, passed in MAT 204 of 2023, directed the Howrah Municipal Corporation to examine the structural stability of the building.

The Corporation, however, failed to undertake the requisite exercise, and the Division Bench directed an order of demolition on May 10, 2023. In compliance with the order dated May 10, 2023, the impugned demolition proceedings have been initiated by the Corporation.

Before this Court, respondent No. 7, the developer of the building, has submitted that he is willing and prepared to bear

all necessary expenses to facilitate the structural stability examination of the relevant building, as required by the Corporation.

I am of the view that this Court cannot modify the order dated May 10, 2023, passed in MAT 204 of 2023 by the Division Bench. Consequently, I am not inclined to entertain this writ petition.

This, however, shall not preclude the petitioners or respondent No. 7 from filing the appropriate application before the Division Bench seeking suitable relief.

Learned counsel for the petitioners, Mr. Majumder, has, however, expressed difficulty in immediately filing an application before the Division Bench on account of the Bench not sitting regularly.

In light of the aforesaid submission, I hereby restrain the Howrah Municipal Corporation from undertaking any demolition work in respect of the relevant premises for a period of ten days from the date of this order, subject to any order that may be passed by the Division Bench.

Accordingly, WPA 13613 of 2025 is disposed of.

In view of the aforesaid stand of respondent no.7, for the ends of justice, I restrain the Corporation to undertake any demolition work in respect of the relevant premises for a period of seven days from date subject to any order that may be passed by the Division Bench."

3. A bare reading of the said order makes it abundantly clear that the Predecessor Bench unequivocally held that the Court lacked jurisdiction to modify the order dated 10.05.2023 passed by the Hon'ble Division Bench in MAT 204 of 2023, and accordingly declined to entertain the writ petition. However, in an exceptional exercise of judicial discretion, the Court restrained the respondent-Corporation from undertaking demolition for a period of ten days to allow the petitioners sufficient opportunity to approach the Hon'ble Division Bench.

4. It is manifest from the record that the petitioners failed to take any steps whatsoever to avail that liberty within the time granted. Instead, the petitioners have now approached this court through the present application seeking to modify a final order and to extend interim protection in a proceeding that already stands conclusively disposed of.

5. This Court is of the considered view that such conduct on the part of the petitioners is not only a clear abuse of the process of the court but also a brazen attempt to reopen and prolong a matter which has attained finality. The indulgence shown by the Hon'ble Predecessor Bench cannot be permitted to be converted into a recurring mechanism for stalling the lawful action of the respondent-Corporation.

6. It is well settled that a disposed of writ petition cannot be revived or modified except to correct a clerical or typographical error. The relief now sought by the petitioners is neither clerical nor incidental, it amounts to substantive prayer for extension of the interim relief in a closed proceeding, which is legally untenable and procedurally impermissible.

7. This Court finds the present application to be wholly misconceived, devoid of merit, an abuse of the process of law and hence, dismissed with stern disapproval.

8. Accordingly, CAN 1 of 2025 is dismissed.

9. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Gaurang Kanth, J.)