

22.04.2025  
Sl. No. 12  
Ct No. 3  
SG

**WPA 15788 of 2024**

**Mrinal Kanti Das**  
**Vs**  
**The State of West Bengal & Ors.**

Mr. Prantick Ghosh,  
Mr. Prasad Bhattacharyya,  
Ms. Shravani Ghosh.  
...for the petitioner

Mr. S. R. Chowdhury,  
Mr. S. Ghosh.  
...for the respondent nos. 2, 3 & 5

1. The present writ petition has been filed as a continuation of an earlier litigation, wherein the petitioner seeks judicial intervention for the removal of an unauthorized structure in the form of a *Mandir* (Temple), allegedly constructed within the premises belonging to the petitioner without his knowledge or consent. The petitioner has further alleged that a tube well was also installed within the said premises without any lawful authority or his permission.

2. It is the case of the petitioner that a piece and parcel of land measuring about 5 Cottahs, situated at Mouza- Banamalipur, J.L. No. 80, Touzi No. 146, within the local jurisdiction of Police Station- Barasat and ADSR- Barasat, together with a kachha house, within Barasat Municipality, Ward No. 13 (Old 20),

Holding No. 1430, Manasatala Road, is exclusively owned and possessed by the petitioner.

3. The crux of the grievance of the petitioner lies on the allegation that the municipality has installed a tube well for the use of the public by forcefully acquiring 36 square feet of land out of total said land of the petitioner without serving any notice. It is further the allegation of the Petitioner that unknown persons in connivance with the municipality officers has constructed one temple, by illegally acquiring 500 square feet of space from the said land owned by the petitioner without his consent or permission and also without obtaining requisite sanctioned plan. Being aggrieved by such illegal acts of the respondent authority, the petitioner has made several representations before the office of the Barasat Municipality. Despite several representations and complaints, the respondents have not taken any action to redress the grievance of the petitioner. Finding no other alternatives, later on, the petitioner has preferred the writ petition being WPA 16277 of 2023 against the inaction of the municipal authority over the issue of removal of unauthorized construction i.e. the temple and the illegal tube well from petitioner's land. In the said writ petition the respondent-municipality had submitted a report wherein they admitted the existence

of illegal unauthorized construction in the form a *Mandir* and installation of an illegal tube well on the said premises. Hence, based on the said inspection report, the co-ordinate Bench of this Court on 06.12.2023 disposed of the said writ petition with a direction to the respondent-municipality to take action for the removal of the unauthorized construction as per Section 218 of the West Bengal Municipal Act, 1993 and also for the removal of the tube well installed at petitioner's premises.

4. In pursuance of the said direction passed by this Court, the respondent concluded the proceeding under Section 218 of the West Bengal Municipal Act, 1993 and pasted a notice dated 01.02.2024 at the premises in question. In the said notice, the respondent-municipality stated that the construction is illegal and had asked the person who had carried out the said construction to remove the same.

5. It is pertinent to mention that the *Puja* Committee i.e. respondent no. 7 had preferred an appeal being MAT 336 of 2024 against the order dated 06.12.2023 in WPA 16277 of 2023. Further the said *Puja* committee had also filed one Title Suit No. 185 of 2024. However, there was no interim order in favour of the said *Puja* Committee.

6. Till date no one has come forward to remove the unauthorized construction.

7. Despite the passage of considerable time and the issuance of lawful notice, the unauthorized construction remains unaltered, as no steps have been taken by the concerned authority to comply with the directive of this Hon'ble Court. Hence, the petitioner once again approached this Court seeking enforcement of the earlier directions.

8. Learned Counsel for the respondent-municipality appears and states that the tube well has been removed from the site. The fact is acknowledged and confirmed by the counsel for the petitioner.

9. Learned Counsel for the respondent-municipality assures the Court that the municipality is ready and willing to remove the unauthorized construction within a period of 12 weeks, provided adequate police assistance is extended to them to ensure the safe and effective execution of their statutory obligations.

10. In view of the said submission, this Court directs the Inspector-in-Charge, Barasat Police Station to extend full and adequate police assistance to the respondent-municipality to enable them to carry out the demolition of the unauthorized construction, strictly in accordance with law.

11. With the above directions, the present writ petition is disposed of.

12. Since no affidavits have been filed by the respondents, the allegations made in the writ petition shall not be deemed to have been admitted.

13. There shall be no order as to costs.

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

**(Gaurang Kanth, J.)**