

13.08.2025.
Item No. 5.
Court No. 13
ap/AP

M.A.T. No. 1217 of 2025
With
I.A. No. CAN 1 of 2025

Sudhan Kumar Das
Versus
Sri Biswajit Bhattacharjee & Ors.

Mr. Prosenjit Mukherjee,
Mr. Jahangir Hossain,
Mr. Argha Kamal Das,
Mr. Raja Roy.

...For the appellant.

Mr. Amitabrata Roy, Id. Government Pleader,
Mr. Nilotpal Chatterjee, Id. Jr. Govt. Adv.
Mr. Shibasish Banerjee.

...For the State.

Mr. Usof Ali Dewan,
Mr. Asif Dewan.

...For the respondent no.6.

Mr. Kanak Kiran Bandyopadhyay.

...For the writ petitioner/respondent.

1. Affidavit-of-service filed in Court today be taken on record.
2. The instant intra court appeal is directed against the order dated 24th July, 2025 passed by a learned Single Judge of this Court in CPAN 567 of 2024.
3. The order was passed in a contempt proceeding being CPAN 567 of 2024 in which violation of the Single Judge's order dated 14th March, 2023 is alleged.
4. The sum and substance of the case is that the private respondent/writ petitioner alleged unauthorized construction of entire third floor by the appellant. By an order dated 14th March, 2023, the learned Single Judge directed Jangipur Municipality to

look into the complaint of the writ petitioner and hear all the parties and pass an appropriate order. Jangipur Municipality thereafter passed an order rejecting the appellant's contention and held that there was unauthorized construction in the property, particularly the third floor. There was no sanction issued for construction of third floor by the Jangipur Municipality.

5. The said order was challenged before another Single Judge of this Court in W.P.A 5547 of 2025 and was set aside by an order dated 7th March, 2025. The Municipality was, however, given liberty to revisit its order.

6. Pursuant thereto, the Chairman of Jangipur Municipality passed an order rejecting the appellant's contention and holding that the construction on third floor of the premises in question was unauthorized and demolition was ordered on 26th March, 2025.

7. The said order was challenged by the appellant before the statutory appellate forum being the local Civil Court. The Civil Court by an order dated 1st July, 2025 set aside the order of the Chairman of Jangipur Municipality for want of jurisdiction since it is the Board of Councilors which had the authority to pass any order under Section 218(1) of the West Bengal Municipal Act.

8. In the meantime, the private respondent/writ petitioner in W.P.A. 27602 of 2022 had already filed a

contempt application against the Municipality being CPAN 567 of 2024. In the said contempt proceeding the impugned order dated 24th July, 2025 was passed.

9. Mr. Mukherjee, learned Counsel appearing on behalf of the appellant relies upon a decision of the Hon'ble Supreme Court of India in the case of ***Midnapore Peoples' Co-operative Bank Limited & Ors. – Vs. – Chunilal Nanda & Ors.*** reported in ***(2006) 5 Supreme Court Cases 399***. He submits that although he was not an alleged contemnor in the proceedings, he would be eventually aggrieved by any order that may be passed by the Municipality and hence, he has right to maintain the present appeal against the order dated 24th July, 2025.

10. There are no two opinions to the fact that eventually any order of the Municipality that may be passed would affect the appellant. It is, however, equally true that the appellant before this Court appears to have effected unauthorized construction and has been surreptitiously moving the proceedings suppressing W.P.A. 27602 of 2022 in the other writ petitions filed by him.

11. The conduct of the appellant as complained of by the writ petitioner/respondent is indeed reprehensible. However, the Single Judge prima facie appears to have travelled outside the scope of the order dated 14th March, 2023 since pursuant thereto the Municipality had already passed one order after

hearing all parties. The said order has been set aside by another Single Bench in WPA 5547 of 2025. A further order was passed thereafter by the Chairman of the Municipality which merged into the order dated 1st July, 2025 of the Civil Judge (Junior Division), 2nd Court at Jangipur in Misc. Appeal No.1 of 2025. The Municipality was, therefore, not in contempt. Further steps as directed in paragraph 6 of the impugned order, therefore, went outside the scope of the order dated 14th March, 2023.

12. This Court is of the view that if the writ petitioner is aggrieved by any subsequent action of the municipality, the same would constitute an independent fresh cause of action to be agitated against the municipality.

13. In view of the above, the impugned order dated 24th July, 2025 shall stand set aside to the extent that the Municipality has been directed to take further steps in the matter.

14. It is submitted by the learned counsel appearing on behalf of the Jangipur Municipality that a fresh hearing has been conducted by the board of councilors on 11th August, 2025. The municipality shall be at liberty to take steps in accordance with law.

15. In view of the above, nothing further remains in the contempt application before the Single Bench. Hence, CPAN 567 of 2024 shall stand disposed of.

16. Accordingly, MAT 1217 of 2025 shall stand disposed of.

17. In view of disposal of the appeal itself, the connected application being CAN 1 of 2025 shall also stand disposed of.

18. There shall be no order as to costs.

19. 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.)