

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

**MAT 1567 of 2024
With
IA No.: CAN 1 of 2024
With
IA No.: CAN 2 of 2024**

**Srikanta Maity
Vs.
Ghatal Municipality & Ors.**

For the appellant : Dr. Siddhartha Goswami, Advocate
Ms. Upasana Shaw, Advocate

For the private respondent : Mr. Sarwar Jahan, Advocate
Mr. Sayantan Hazra, Advocate

For the Ghatal municipality : Mr. Swarup Kumar Ghosh, Advocate
Ms. Poulami Chakraborty, Advocate

Heard & Judgment on : January 8, 2025

DEBANGSU BASAK, J.:-

1. IA No.: CAN 2 of 2024 is an application for condonation of delay.

2. Department reports a delay of 67 days in making and filing the appeal.
3. The respondents are represented.
4. For the ends of justice, the causes shown in the application for condonation of delay are accepted as sufficient. Delay in making and filing the appeal is condoned.
5. **IA No.: CAN 2 of 2024** is allowed.
6. By consent of the parties, the appeal is taken up for final hearing.
7. Appeal is directed against an order dated May 2, 2024 passed W.P.A. 7833 of 2023.
8. Appeal is at the behest of the writ petitioner.
9. By the impugned order, the learned Single Judge disposed of the writ petition by keeping open the issue of ownership of the property to be decided by an appropriate forum.
10. Appellant approached the Writ Court assailing an order of the municipality dated November 2, 2022. This is the second writ petition at the behest of the appellant. The first writ petition being W.P.A. 8468 of 2022 at the behest of the appellant was disposed of by an order dated September 21, 2022 requiring the municipality to decide the issue as to the allegation of unauthorized construction at the locale.
11. Pursuant to the order dated September 21, 2022 passed in W.P.A. 8468 of 2022, municipality undertook the exercise of deciding the issue of unauthorized construction at the locale upon notice to the private parties.

12. Municipality came to the finding by its order dated November 2, 2022 that, the private respondent constructed the building after obtaining permission from the municipality.
13. Learned Advocate appearing for the appellant submits that, the construction was made before the private respondent received benefit under the Pradhan Mantri Awas Yojona scheme. He submits that, the private respondent constructed a two-storied building which is in breach of the scheme of Pradhan Mantri Awas Yojona. He contends that, a two-storied building cannot be constructed by a beneficiary of such scheme. Moreover, he contends that, the model plan given under the scheme was not adhered to.
14. Learned Advocate appearing for the private respondent submits that, the relationship between the appellant and his client is one of father and son. The appellant is the son of his client. He submits that, the litigations initiated at the behest of the appellant are actuated by malice.
15. We are not concerned with the disputes inter se between the private parties. The alleged violation of the scheme is also not subject matter of the writ petition.
16. In the earlier round of litigation, the municipality was called upon to decide the issue of unauthorized construction upon notice to the private parties. Municipality did so. Municipality heard the respective parties. Municipality passed an order dated November 2, 2022.

17. Appellant is not in a position to establish or substantiate that the construction at the locale is unauthorized. Municipality is of the view that the construction was made after obtaining requisite permission.
18. In such circumstances, we find no merit in the present appeal.
19. **MAT 1567 of 2024** and **IA No.: CAN 1 of 2024** are **dismissed** without any order as to costs.

(Debangsu Basak, J.)

20. I agree.

(Md. Shabbar Rashidi, J.)

(AD)