

11.09.2025
Court No.13
Item No.3
AP

MAT 1518 of 2025
With
CAN 1 of 2025
Sri Subhanu Ghosh
Vs.

Sujit Prasad Ghosh @ Sujit Prosad Ghosh and Ors.

Mr. Dibyendu Chatterjee
Ms. Reshmi Ghosh
Ms. Parna Mukherjee

.... For the Appellant.

Mr. Pinaki Bhattacharyya
Mr. M. Mondal

..For the State.

Mr. Amitabha Ghosh
Ms. Arpita Paul Biswas

.... For the Private Respondents.

Mr. Dipak Kumar Mukherjee
Mr. Rajib Mukherjee

.... For the Uttarpara Koatrung Municipality.

1. The matter was listed on grounds of extreme urgency being cited by the learned counsel for the appellant. The appellant and the writ petitioners/respondents before the Single Bench appeared to be sworn enemies. They reside within the jurisdiction of the Uttarpara Koatrung Municipality.

2. The appellant obtained an order of demolition of the premises of unauthorized construction effected by the writ petitioners/respondents in respect of premises No.46/1, Ghoshpara, Makhla, Uttarpara. As a counter blast, a writ petition was filed by the writ petitioners/respondents alleging unauthorized construction effected by the appellant at premises No.75, Ghoshpara, Makhla, Uttarpara.

3. While it is true that the properties are 200 meters apart and there cannot be any obstruction of ingress and egress of the property of the writ petitioners/respondents by the appellant's premises, the Uttarpara Koatrung Municipality independently found unauthorized construction within the premises of the appellant. A notice dated 28th June, 2025 was issued to the appellant by the Uttarpara Koatrung Municipality asking him to show cause within one day as to why the unauthorized construction should not be demolished. Despite the said very short notice, the appellant filed representation before the municipality through his advocates. They presented documents and sought for ten days time to submit further documents.

4. Learned counsel for the writ petitioners/respondents participated in the proceedings against the construction of the appellant ten days thereafter. It is, therefore, presumed that the appellant also had an opportunity of ten days to reply to the Uttarpara Koatrung Municipality and submit further documents as regards alleged unauthorized construction. Instead, the appellant filed a CAN application before the Single Bench alleging violation of natural justice. He has also prayed for demolition of the premises of the writ petitioners/respondents then prayed for demolition of unauthorized construction in his premises. It may be noted that the actual and substantive hearing of the demolition proceedings against the premises of the

appellant began on the date when the petitioner/respondent participated in the hearing. The first step before initiating a substantive demolition proceedings is to issue a show cause. The same is issued with a view to prima facie ascertain that whether there is unauthorized construction.

5. This Court is surprised to note that the appellant has chosen not to challenge the demolition proceedings before the Civil Court under Section 218 (3) of the West Bengal Municipal Act, 1993. He had sufficient time to take out an application before this Court.

6. It is now well-settled that every violation of the principles of natural justice will not ipso facto invalidate a proceeding. A person must demonstrate actual prejudice caused by such infraction. While it is true that only one day's notice was given to the appellant to explain unauthorized construction at his premises, it is equally true that the appellant was able to represent himself through advocates and submit documents. A further ten days time was given to the appellant to submit further documents with regard to explain the unauthorized construction. Thus, there has been in fact no violation of natural justice.

7. The argument advanced by Mr. Chatterjee, learned counsel appearing on behalf of the appellant that he is aggrieved by the order of the Single Bench which directed the municipality to proceed with the demolition

order. It is clear and explicit that the Single Bench had reserved liberty to both the parties to take steps in accordance with law against the order of demolition. Such steps would essentially mean an appeal before a Single Bench under Section 218 (3) of the West Bengal Municipal Act, 1993.

8. In view of the above, this Court is of the view that the appellant had mislead this Court in citing grave and non-existent urgency in moving the instant appeal which was specially listed today.

9. Since the remedies available to the parties have been indicated by the Single Bench itself, the impugned order calls for absolutely no interference.

10. For having mislead this Court on urgency, this Court is inclined to impose costs assessed at Rs.11,000/- on the appellant to be paid to the High Court Legal Services Authority within seven days from date. The payment of costs shall be pre-condition for entertainment of the appeal, if any, preferred by the appellant before the Civil Court under Section 218 (3) of the West Bengal Municipal Act, 1993 as indicated hereinabove. The Civil Court shall ascertain compliance of the payment of costs as directed hereinabove before entertaining any appeal. In default of payment of costs, the appeal of the appellant shall not be entertained at all and shall be dismissed.

11. With the aforesaid observation, MAT 1518 of 2025 shall stand dismissed. Consequently, CAN 1 of 2025 is also dismissed.

12. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)