

26.09.2025.
Court No.13
Item Nos. 12 & 13
ap

M.A.T No. 1614 of 2025
With
I.A. No. CAN 1 of 2025
Smt. Aruna Dalui & Ors.
Versus
The State of West Bengal & Ors.
And
M.A.T. No. 1616 of 2025
Smt. Aruna Dalui & Ors.
Versus
Manish Agarwal & Ors.

Mr. Chittapriya Ghosh,
Mr. Aniruddha Singha Roy,
Mr. Abhik Das Sarma,
Ms. Priyanka Saha,
Mr. Amit Kumar Dutta.

...For the appellants.

Mr. Arijit Dey.

...For the Baranagar Municipality.

Mr. Siddhartha Banerjee,
Mr. Dwaipayan Basu Mallick,
Ms. Sananda Ganguli.

...For the respondent no.5.

Mr. Biswaroop Chowdhury,
Mr. Meghnad Datta,
Mr. Subhankar Chakraborty,
Mr. Saptorshi Bhattacharjee,
Ms. Sayani Gupta.

...For the respondent no.6.

1. Affidavit-of-service filed in Court today be taken on record.

2. These instant intra court appeals are directed against judgment and order dated 12th September, 2025 passed by a learned Single Judge of this Court in W.P.A No. 308 of 2025 and W.P.A. No. 9471 of 2025.

3. This Court finds that the Counsel for all the parties have tried to mislead the learned Single Judge and this Court. There is some suppression of material facts as regards the ownership of one portion of the

property which is the subject matter of the writ petition.

4. Two writ petitions were decided and disposed of by the learned Single Bench by the common judgment impugned herein. The first writ petition being W.P.A. No. 308 of 2025 was filed by Aruna Dalui and others claiming to be the owners and/or occupiers of a Municipal premises No.18, Hatem Munshi Lane, Baranagar, Kolkata. The second premises was 18/1, Hatem Munshi Lane, Baranagar, Kolkata. The said premises was subsequently renumbered as 7/1/A, Vivekananda Road, Kolkata after amalgamation and/or renumbering.

5. An earlier writ petition being W.P.A. No. 19975 of 2023 was filed by the private respondent no.5 herein, one Manish Agarwal, who claims to be a local resident and nowhere connected with the three properties. He alleged unauthorized construction at premises Nos. 18 or 18/1, Hatem Munshi Lane, Baranagar, Kolkata or 7/1/A, Vivekananda Road, Kolkata. The said writ petition was disposed of by a Single Judge of this Court directing Baranagar Municipality to look into the allegations of unauthorized construction. The Municipality launched itself and conducted an inspection of the said premises as also a hearing of the appellant and the private respondent no.6.

6. The appellants claiming to be the owners and/or occupiers of the said premises, did not present themselves in time before the Municipality and hearing was concluded.

7. The order that was passed pursuant to such hearing and found unauthorized construction at premises No.7/1/A, Vivekananda Road, Kolkata – 700 035.

8. Curiously in the subject of the order of demolition, which is dated 27th November, 2024, premises No.7/1/A, Vivekananda Road, Kolkata is described incorrectly as premises Nos.18 or 18/1, Hatem Munshi Lane, Ward No.8, Baranagar, Kolkata. There is a fundamental error at the instance of Baranagar Municipality in this regard. Annexed to the writ petition is a note of the Assessment-in-charge, Baranagar Municipality dated 17th August, 2025 which clearly holds that the premises Nos.18 and 18/1, Hatem Munshi Lane, Baranagar, Kolkata are separate and independent Municipal premises. The premises No.18/1, Hatem Munshi Lane, Baranagar, Kolkata was subsequently amalgamated into premises No. 7/1/A, Vivekananda Road, Kolkata.

9. Both the appellants and the respondents misled the learned Single Bench by incorrectly mentioning of the premises Nos.18 and 18/1, Hatem Munshi Lane, Baranagar, Kolkata in the subject portion of the order

dated 27th November, 2024 impugned in the writ petition of the appellants, as one and the same.

10. The second writ petition that was considered by the learned Single Judge of this Court being W.P.A. No. 9471 of 2025 was filed seeking enforcement of the order dated 27th November, 2024.

11. This Court clearly having found that the Chairman, Baranagar Municipality having mentioned a wrong subject and confusing premises No.18 with 18/1, Hatem Munshi Lane, Baranagar, Kolkata (subsequently amalgamated as 7/1/A, Vivekananda Road, Kolkata – 700 035), the order of the Municipality cannot be sustained in law. Hence, the impugned order dated 27th November, 2024 passed by the Chairman and the Board of Councillors, Baranagar Municipality is ex facie illegal and liable to be set aside.

12. Admittedly, there is unauthorized construction found in both premises No.18, Hatem Munshi Lane, Baranagar, Kolkata and premises No. 7/1/A, Vivekananda Road, Kolkata – 700 035.

13. Baranagar Municipality shall be at liberty to conduct a fresh inspection on both the premises separately and pass orders based on these records. If any unauthorized construction i.e. without sanction plan is found on any of the two premises, Baranagar Municipality may issue notices afresh to the

occupiers/owners in respect of the aforesaid two Municipal premises and pass fresh orders.

14. This Court's mind is not free from doubt that the proceedings before this Court and the Municipality may can an arm-twisting tactic for collateral purposes. The impugned judgment is therefore set aside.

15. There is some evidence on record suggesting that there might have been a very old construction at premises no.18, Hatem Munshi Lane, Baranagar, Kolkata. The Municipality shall consider the same after due verification of records.

16. The ownership and title to the property could not have been the subject matter of the writ petition or the proceedings before this Court. The same is pending in civil suits by and between the parties.

17. The parties may establish their civil rights in respect of the properties in such civil proceedings in accordance with law. The order of status quo passed by the learned Additional District Judge, Fast Track, First Court, Barrackpore in Title Appeal No. 73 of 2024 and Title Appeal No. 151 of 2025 shall continue to be respected by all the parties subject to any interference by this Court in any other proceedings taken out by the parties against one another.

18. With the aforesaid observations, M.A.T. 1614 of 2025 and M.A.T. No. 1616 of 2025 are disposed of.

19. In view of disposal of M.A.T. 1614 of 2025, the connected application being CAN 1 of 2025 is also disposed of.

20. There will be no order as to costs.

21. 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.)