

Court No. 6
(265719)

25.09.2025

(AD 78)

(S. Banerjee)

CO 3583 of 2025

Ramen Kumar Mallick

Vs.

The Chairman, Board of Councillors, Serampore
Municipality & Ors.

Mr. Partha Pratim Roy
Mr. Sayan Sinha
Mr. Adil Naser
Mr. S. Roy

...for the petitioner

Mr. Arijit Sarkar
Mr. Sagnik Chatterjee

...for the opposite party no. 1

Mr. Tanmay Chowdhury
Ms. Rupsa Sreemani
Ms. Sulagna Sarkar

...for the opposite party nos. 2 and 3

This application under Article 227 of the Constitution of India is at the instance of the owner of the impugned construction and is directed against order dated August 25, 2025 passed by the learned Civil Judge (Jr. Division), 2nd Court at Serampore in Misc. Appeal No. 18 of 2025. By the order impugned, the prayer for stay of the order of demolition, was rejected.

The petitioner challenged the order of demolition passed by the municipality by preferring an appeal under the provisions of Section 218(3) of the West Bengal Municipal Act, 1993. In connection with the said misc. appeal, the petitioner filed an application

for stay of operation of the order of demolition. Such prayer was rejected by the impugned order dated August 25, 2025 which prompted the petitioner to approach this court.

Mr. Roy, learned advocate appearing for the petitioner submits that the said prayer was rejected on the ground of misquotation of the date of the order of demolition. He submits that unless the order of demolition is stayed, the petitioner will suffer irreparable loss and injury.

Learned advocate appearing for the opposite party nos. 2 and 3 submits that the petitioner made an illegal construction and pursuant to the complaint lodged by the said opposite parties, the municipality initiated a proceeding under Section 218 of the West Bengal Municipal Act, 1993 and passed an order of demolition. He submits that since there is an unauthorized and illegal construction, the municipality was right in passing the order of demolition. He further submits that part demolition was also effected.

Heard the learned advocate for the municipality.

It has been uniformly submitted by the learned advocate appearing for the respective parties that the misc. appeal is otherwise ready for hearing and October 24, 2025 is the date fixed for hearing of the said misc. appeal.

The petitioner has challenged an order of demolition passed by the municipality by preferring a misc. appeal. The petitioner has availed the statutory remedy available under the statute. If during the pendency of the said misc. appeal the order of demolition is implemented, the misc. appeal will become infructuous.

For such reason, this court is inclined to pass an interim order during the pendency of the said appeal.

There shall be an order of stay of operation of the order of demolition dated July 24, 2025 passed by the authorities of Serampore Municipality till the disposal of the misc. appeal.

The learned Civil Judge (Jr. Division), 2nd Court at Serampore is requested to take up the hearing of the misc. appeal on the next date fixed and to make an endeavour to dispose of the same as expeditiously as possible, preferably within a period of twelve weeks from the next date fixed, without granting any unnecessary adjournment to either of the parties.

With the above observations CO 3583 of 2025 stands disposed of.

(Hiranmay Bhattacharyya, J.)