

17.02.2025
Item No.5 with 6
Court No.26
CHC
(disposed of)

MAT 143 of 2025
IA NO: CAN/1/2023
CAN/2/2024

Ashit Mukherjee
Vs.
Sri Nirmal Singha & Ors.
With
WPA 24190 of 2022
Sri Nirmal Singha & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Kushal Chatterjee, Advocate
Mr. Oishik Chatterjee
...for the appellant

Md. Sarwar Jahan, Advocate
Mr. Sayantan Hazra, Advocate
Ms. Tapati Sarkar, Advocate
...for the respondent no.1/writ petitioner

Mr. Rabindra Narayan Dutta, Advocate
Mr. Soumyajit Bhatta, Advocate
...for the Panihati Municipality

Mr. Kushal Biswas, Advocate
...for the State in MAT/143/2023

Ms. Debarati Sen (Bose), Advocate
...for the State in WPA 24190/22

1. Appeal is at the behest of the private respondent in writ petition and directed against the order dated January 18, 2023, passed in W.P.A. 24190 of 2022.
2. The impugned order is an interim order passed in a pending writ petition.
3. Writ petition is yet to be finally decided.
4. Allegation in the writ petition revolves around unauthorized construction made at the behest of the appellant at the subject plot.

5. By consent of the parties, the writ petition is taken up for final hearing in this appeal. Appeal is also taken up for final consideration by consent of the parties.
6. From time to time, Municipality submitted reports as to the validity, legality and sufficiency of the construction occurring at the locale. Stand of the Municipality vacillated from a site plan being sanctioned to one of no approval thereof. It is however, admitted across the Bar that, no building plan was ever sanctioned. Case of the appellant is one of deemed sanction.
7. Issue as to the legality, validity and sufficiency of the building standing at the locale requires consideration.
8. Municipality acting under the provisions of the West Bengal Municipal Act, 1993, will invoke the provision of Section 218 and not the 208 thereof.
9. Appellant will not sell transfer or alienate any property in any manner whatsoever as on date. Appellant will submit a report to the Municipality by today detailing the number of plots and the owners at that promises.
10. No transfer of any nature will occur at the property in any manner whatsoever till such, the issue with regard to Section 218 is decided.

11. Municipality will undertake the exercise on an urgent basis given the stand taken by the appellant in Court. We deprecate such stand of the appellant.
12. Municipality will proceed on day to day basis without affording any adjournment to the appellant on any ground whatsoever.
13. Appellant will conclude the exercise preferably within a fortnight from date.
14. **MAT 143 of 2023 and WPA 24190 of 2022** along with connected application are **disposed of** without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)