

Form No.J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 28228 of 2025

Sanat Kumar Ghosh

Versus

State of West Bengal & Ors.

with

WPA 26930 of 2025

Mitali Chongdar

Versus

Howrah Municipal Corporation & Ors.

with

WPA 9011 of 2025

Smt. Mitali Chongdar

Versus

The Howrah Municipal Corporation & Ors.

For the petitioner : Mr. Sanjib Seth
in WPA 28228 of 2025.

For the petitioner : Mr. Tanmoy Mukherjee
in WPA 26930 of 2025

For the State : Ms. Nilanjana Banerjee Pal
Mr. Tauhid Khan

For the Howrah : Mr. Sandipan Banerjee
Municipal Corporation. Mr. Ankit Sureka

Heard on : 16.12.2025.

Judgment on : 16.12.2025

Raja Basu Chowdhury, J (Oral):

1. The petitioner in WPA 28228 of 2025 (hereinafter referred to as the “first writ petition”) has challenged the demolition order dated 24th November, 2025. The petitioner in the first writ petition claims to be the owner in respect of holding no. 21/3/B, Umesh Banerjee Lane, P.O and P.S. – Shibpur, Howrah – 711102.

2. The petitioner in the first writ petition had previously challenged the order dated 22nd January 2024, whereby the petitioner in the first writ petition was directed to cause self demolition of the unauthorized construction at the first and second floor as per the inspection report, filed a writ petition which was registered as WPA 19292 of 2024. A separate writ petition being WPA 4388 of 2025 was filed by the private respondent in the first writ petition for implementation of the order dated 22nd January, 2024. It is in relation to such proceeding that a Coordinate Bench of this Court while hearing out the said case on 21st May 2025 noted that the petitioner in the first writ petition had already filed a writ petition being WPA 19292 of 2024 challenging the above demolition order. The writ petition being WPA 19292 of 2024 was, thus, directed to be listed after 6 weeks on 2nd July 2025.

3. Being aggrieved with such direction to list the matter after 6 weeks, the petitioner in the first writ petition had approached the Hon’ble Division Bench of this Court during the vacation in MAT 823 of 2025.

4. In course of hearing of such appeal, the petitioner in the first writ petition insisted that the demolition order passed by the Howrah Municipal Corporation should be stayed. It is in relation to such proceedings that the Hon'ble Division Bench of this Court had by order dated 3rd June, 2025 directed the municipal authorities to consider and decide the appellant's pending representation dated 20th February 2024, after giving opportunity of hearing to the appellant and to pass a reasoned order. It is in furtherance to such direction that the order dated 24th November 2025 has been passed.

5. Although, the petitioner in the first writ petition seeks to challenge the same by, inter alia, contending that the petitioner's residence was in existence for the last 70 years, however, having regard to the factual findings rendered and such stand having not been taken earlier, this Court is unable to interfere with such order especially when no new case can be permitted to be made out at this stage, more so since, the petitioner in the first writ petition having also failed to make out a case of violation of principles of natural justice or perversity.

6. However, learned advocate for the petitioner in the first writ petition at this stage on instruction submits that the petitioner in the first writ petition is ready and willing to cause self demolition of the unauthorized portion in terms of the original order dated 22nd January, 2024 and for the said purpose he requires some more time.

7. Having heard the learned advocates for the parties and having regard to the statement made by the advocate for the petitioner in the first writ petition in Court today, I am of the view that the petitioner in the first writ petition should file an undertaking before this Court undertaking to demolish the unauthorized construction at premises no. 21/3/B, Umesh Banerjee Lane, Shibpur, Howrah, in terms of the order dated 22nd January 2024 passed by the OSD, Borough – IV, Howrah Municipal Corporation on or before 30th May 2026.

8. Accordingly, let the self demolition as directed above be conducted upon prior notice to the municipal authorities in presence of a responsible officer of the Howrah Municipal Corporation who should be present to oversee the demolition. The said officer must file a report to the Commissioner for the Commissioner to forward the report with his satisfaction before the learned Registrar General of this Court. It is made clear that if no notice is received by the municipality or if, the illegal construction is not removed within the time specified hereinabove, the Howrah Municipal Corporation shall carry out the original order dated 22nd January, 2024 and the order dated 24th November, 2025 insofar as the petitioner in the first writ petition is concerned, and to file a compliance report before the learned Registrar General of this Court along with photographs, within a month from the date of expiry of the period mentioned hereinabove at the cost, charge and expense of the petitioner in the first writ petition.

9. There shall be an unconditional interim order till Monday (22.12.2025). In the event, the petitioner in the first writ petition complies with the direction and files an affidavit of undertaking in such event, the interim order shall continue up to 30th May 2026. Alternatively the demolition shall continue.

10. Insofar WPA 26930 of 2025 (hereinafter referred to as the “second writ petition”) is concerned, admittedly, from the supplementary affidavit, I find that that the Commissioner was only considering the issue of demolition of holding no. 21/3/B Umesh Banerjee Lane, P.O and P.S. – Shibpur, Howrah – 711102, in terms of order passed in MAT 823 of 2025. As such, the direction to demolish the petitioner’s portion in the second writ petition appears to be an exercise without due notice to the petitioner in the second writ petition, as the petitioner in the second writ petition would contend that without appropriate disclosure of facts, the above order was passed.

11. Having regard thereto, the direction dated 24th November, 2025 to the extent the same directs demolition of the portion which forms part of the second writ petition, i.e. the portion of Smt. Mitali Chongdar in premises no.20/2, Umesh Banerjee Lane, Shibpur, Howrah, is set aside. The aforesaid order shall, however, not interfere with the rights of the Howrah Municipal Corporation to proceed against the petitioner in the second writ petition afresh in accordance with law since, it would

transpire from the above order that the portion of the petitioner in the second writ petition is also an unauthorized one.

12. Accordingly, both the writ petitions stand disposed of.

13. In the light of the above, WPA 9011 of 2025 filed by the writ petitioner in the second writ petition, which seeks to challenge the order dated 8th April, 2025 by reasons of the subsequent order dated 24th November, 2025 is also disposed of.

14. All parties shall act on the basis of server copy of this order duly downloaded from this Court's official website.

(Raja Basu Chowdhury, J.)

**Saswata
A.R. (Court)**