

DL-6

09.01.2025
Court No.26
(AD/SD)

FMA 13 of 2025
With
IA No.: CAN 1 of 2024

Sutapa Chakraborty
Vs.
The State of West Bengal & Ors.

Mr. Ayan Banerjee, Advocate
Mr. Partha Pratim De, Advocate
Mr. Pinaki Brata Ghosh, Advocate
Mr. Abhinaba Roy, Advocate
... for the appellant.

Mr. Debajyoti Mondal, Advocate
.. for the respondent nos.8 and 9.

1. Appeal is directed against the order dated November 4, 2024 passed in WPA 13242 of 2024.
2. By the impugned order, the learned Single Judge dismissed the writ petition on the finding that the photograph annexed to the writ petition does not indicate that the signboard obstructs the window of the writ petitioner.
3. Appeal is at the behest of the writ petitioner.
4. Learned Advocate appearing for the appellant submits that, there was a stop work notice issued by the concerned municipality on April 9, 2016 regarding the signboard. He submits that, learned Single Judge did not take such fact into consideration while dismissing the writ petition.
5. Learned Advocate appearing for the private respondents submits that his clients purchased

the property and that at the time of such purchase, a structure of the signboard was already affixed. He submits that no opportunity to file an affidavit was given by the learned Single Judge.

6. Municipality is not represented.

7. Appellant alleges unauthorized construction.

There is a notice dated April 9, 2016 issued by the Municipality under Section 220 of the West Bengal Municipal Act, 1993. Such issue is required to be considered. Moreover, the private respondents contend that an opportunity should be afforded to the private respondents to file an affidavit to the main writ petition.

8. Impugned order proceeds on the basis of photographs without taking into consideration the notice under Section 220 of the West Bengal Municipal Act, 1993.

9. In such circumstances, it would be appropriate to set aside the impugned order dated November 4, 2024 and remand the writ petition for fresh hearing after permitting the parties an opportunity to file affidavits.

10. It is clarified that the observations in this order are for the purpose of deciding the appeal and none of the parties will be prejudiced at the hearing of the writ petition by the observations made herein.

11. **FMA 13 of 2025** and the connected application
are disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)