

17.02.2025  
Item No.10  
Court No.26  
CHC  
(disposed of)

**FMA 78 of 2025**  
**IA NO: CAN/1/2025**

**Arnab Kumar & Ors.**  
**Vs.**  
**The State of West Bengal & Ors.**

Mr. Dibyendu Chatterjee, Advocate  
Mr. Pritam Majumdar, Advocate  
Mr. Rahul Deb Goenka, Advocate  
Ms. Satabdi Das, Advocate  
Mr. Mainak Singha Barma, Advocate  
...for the appellants

Mr. Malay Kumar Singh, Advocate  
Ms. Neelam Singh, Advocate  
...for the State

Mr. Partha Sarathi Bhattacharya, Sr. Advocate  
Mr. Sougata Mitra, Advocate  
Mr. Subhadeep Mitra, Advocate  
...for the Purulia Municipality

Mr. Sabir Ahmed, Advocate  
Mr. Nikhil Kr. Gupta, Advocate  
...for the private respondent

1. Report called for from Municipality filed in Court be taken on record.
2. Appeal is directed against the order dated November 22, 2024, passed in WPA 12462 of 2023.
3. By the impugned order, learned Single Judge dismissed the writ petition on the ground of delay.
4. Learned Single Judge found that, petitioner alleged unauthorized construction after waiting for four years post purchase.
5. Learned advocate appearing for the appellants submits that, the fifth floor of which, construction is

alleged to be unauthorized was erected subsequent to the purchase made by the appellants. Thereafter, appellants complained to the authorities. Authorities did not take any steps on the such complaint. This forced the appellant to approach the Writ Court. According to the appellants, there is no delay in filing the writ petition.

6. Although, Limitation Act, 1963 does not apply to a writ proceeding, nonetheless, the Writ Courts are slow to interfere where there is delay on the part of the writ petitioner approaching the Writ Court.
7. In the facts and circumstances of the present case, a G+4 construction was initially erected after obtaining sanctioned building plan. Appellants before are the purchasers of one of the flats. Appellants purchased such flat in 2018. Unauthorized construction of the fifth floor of the said building commenced in the year 2019. Appellants started complaining to the authorities about the same. Appellants thereafter, filed Writ Petition being WPA 12462 of 2023 in which the impugned order was passed.
8. Learned advocate appearing for the private respondent submits that, initially sanction was granted in 2016. Thereafter, on breach being made by the private respondent, a further sanction was granted on June 12, 2019.
9. There is a doubt as to whether, a G+5 storied building can be sanctioned with the width of the

road presently existing. Initial sanction of 2016 shows that, the road to be 12 ft wide. Subsequent sanction of 2019 places the width of the road at 18 ft.

10. There is no explanation on the part of the Municipal Authorities or from the State as to how the width of the road increased between 2016 being date of sanction and 2019 being date of subsequent sanction. Mouza map of the locality was looked into. Mouza map does not suggest the width of the road to be 18 ft in the manner as claimed in the subsequent sanction.
11. We called upon the Municipality to submit a report as to the width of the road. A site plan is submitted today, which be taken on record. It shows that the width of the road to vary between 14ft to 18 ft including 2 ft wide drainage. Consequently, the width of the road can never be taken to be 18ft by any stretch of imagination given the width of the drainage as shown in the second sanction.
12. In such circumstances, the Municipality will invoke the provisions of Section 218 of the West Bengal Municipal Act, 1993 forthwith and will conclude the proceeding within a period of fortnight from date.
13. Municipality will afford an opportunity of hearing to the private parties. Municipality is at liberty to hear such parties and consult such documents as it deems necessary. Municipality will not afford any

adjournment to any of the parties on any pretext whatsoever. The Municipality will communicate its reasoned order to the parties it heard forthwith thereafter.

14. **FMA 78 of 2025** along with connected application are **disposed of** without any order as to costs.

**(Debangsu Basak, J.)**

**(Md. Shabbar Rashidi, J.)**