

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Side**

24 30.1.2025
Sc Ct. no. 2

WPA 299 OF 2025

Biswajeet Bose

Vs.

Siliguri Municipal Corporation & Ors.

Mr. Sanjay Mazoomdar
Ms. Sukanya Adhikary.

....For the Petitioner

Mr. Deborshi Dhar

....For the State

Mr. Sudip Kr. Paul

....For the Respondent
No.5

Affidavit-of-service, filed today in Court, is taken on record.

Mr. Sanjay Mazoomdar, learned Advocate appears for the petitioner.

Mr. Deborshi Dhar, learned Advocate appears for the respondent nos.1 to 4.

Mr. Sudip Kr. Paul, learned Advocate appears for the respondent no.5.

The petitioner complains of unauthorized and illegal construction on the premises at the behest of the private respondent no.5. The petitioner submitted its representation dated **December 10, 2024, Annexure-P1 at page 14** to the writ petition alleging

unauthorized construction, but no step has been taken.

Learned Advocate appearing for the respondent no.5 submits that, no further construction has been carried out at the premises in the recent past. The construction which is there at the premises is there since **1964** by virtue of a sanctioned plan granted by the municipal authority at that relevant point of time. Thereafter no construction has held.

The private respondent no.5 denies and disputes the allegations made by the petitioner. He submits that, no unauthorized construction has ever been carried out. The private respondent no.5 further submits that, he has filed a civil suit against the petitioner which is pending before the learned Civil Judge, Siliguri. He further submits that, a complete partition in accordance with law has taken place at the premises between the co-sharers in the year **2008** and since then the parties are in settled possession at their own share and there has been no construction whatsoever.

In view of the above, the jurisdictional **Sub-Assistant Engineer, Siliguri** upon prior notice to the petitioner and the private respondent and in their presence shall cause a physical inspection of the premises whether any unauthorized and illegal

construction is there and shall prepare a report accordingly. Copy of the report shall be provided to the petitioner, the private respondent no.5 and the respondent no.2.

This exercise shall be carried out by the Sub-Assistant Engineer of the Siliguri Municipal Corporation positively within a period of **four weeks** from the date of communication of this order.

In the event, unauthorized and illegal construction is confirmed in course of such inspection and the report speaks for the same, the parties shall be granted liberty to completely remove the same to the satisfaction of the Municipal Commissioner positively within a period of **two weeks** from the date of the said report to be submitted to them.

In the event the unauthorized construction is not removed by the parties or partly removed by the parties then, the Municipal Commissioner shall take necessary and consequential steps immediately in accordance with law and shall forthwith demolish and remove the unauthorized construction or any part of it completely but positively within a period of **four weeks** after the failure of removal of such unauthorised construction by the parties.

It is made clear that, this Court has not gone into the merits of the pending civil suit and the rival claims

of the parties therein and the jurisdictional civil court shall be free to proceed with the same independently in accordance with law without being influenced by the observation made by this Court, if any.

In the event at the material point of time if any police assistance is sought for by the Municipal Commissioner, the local police authority shall render all necessary assistance to the Municipal Commissioner.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions this writ petition, **WPA 299 of 2025** stands ***disposed of***, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)