

23.04.2025
Court No. 2
Item No. 61
AGM

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

WPA 882 of 2025

Sumanta Misra
Versus
Jalpaiguri Municipality & Ors.

Mr. Kunaljit Bhattacharjee.
Mr. Haider Ali.
Mr. Satyam Sarkar.
.....for the petitioner.

Mr. Pretom Das.
... For the Municipality.

Ms. Esha Acharya.
... for the respondent no. 5 to 7.

1. Affidavit-of-service filed today in Court be kept with the records.

2. The petitioner apprehends that the coconut tree, which is standing on the land of the private respondents has grown up to such extent that there is likelihood of the same falling on the structure of the petitioner causing damage to it.

3. Fearing such danger, the petitioner made a request before the Chairperson of the Jalpaiguri Municipality, the respondent no. 2, for taking remedial steps. The same is pending consideration.

4. Learned advocate representing the private respondents submits that the writ petition has been

filed on mere apprehension. No order can be passed on the same.

5. Learned advocate representing the Municipality submits that the Municipality is yet to ascertain the likelihood of the damage that may be caused.

6. Section 328(1) of the West Bengal Municipal Act, 1993, as placed by the petitioner, reads as follows:

“ If any tree or any branch of a tree or the fruit of any tree overhangs or is likely to fall and thereby endanger any person or any structure, well or tank, the Chairman may by notice require the owner of such tree to secure, lop or cut down the tree to prevent any danger therefrom.”

7. The Section has been couched in such a manner that if there is any likelihood of any danger, then the Chairman is required to take notice of the same.

8. The petitioner, apprehending danger of the coconut tree falling over his structure, has lodged a complaint before the Chairman of the Municipality.

9. The Chairman of the Municipality ought to consider the same in accordance with the provision mentioned hereinabove upon giving notice to the owner of the subject tree, that is, the private respondents herein and thereafter takes steps either to secure, lop or cut the tree to prevent any danger.

10. Accordingly, the Chairman of the Municipality is directed to act in accordance with the aforesaid provision of law. It will be open for the Chairman of the Municipality to take assistance from

the State Administration to comply the direction passed hereinabove.

11. Steps shall be taken in the matter at the earliest but positively within a period of eight weeks from the date of communication of this order.

12. All corrective remedial measures shall be taken by the Municipality without waiting for the damage to take place.

13. The writ petition stands disposed of.

14. Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)