

D/L - 17
31/10/2025
Court. No. 2
Aritra

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

WPA 2122 of 2025

**Fatik Barman
Vs.
The State of West Bengal & Ors.**

Mr. Kunaljit Bhattachrjee
Mr. Alok Sah

....for the petitioner

Mr. Nabankur Paul
Ms. Patralekha Choudhury

....for the State

Ms. Suman Sehanabis

....for the respondent Nos.2 & 3

Mr. Sandip Guha Roy
Mr. Ananda Paul
Mr. Tanay Mandal

....for the respondent No.5

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

The petitioner alleges that the private respondents are carrying on construction work in deviation of the sanctioned building plan. The petitioner alleges that there also has been unauthorised use of a portion of the premises by the private respondent de hors the sanctioned plan.

The learned advocate appearing for the private respondent disputed the submission made by the learned advocate for the petitioner. He submits that at the time of purchase of the property by the private respondent his vendor provided him with a duly executed No Objection notary affidavit and a declaration wherein it was clearly stated that during the construction of the neighboring building belonging to Sri Fatik Barman, both the parties had

mutually agreed to maintain a gap of 2 ft. between their boundary walls in deviation of the minimum 3 ft. as per the Municipal Rules and the same was accepted by the Municipality while revising the petitioner's building plan from 3 ft. to 2 ft. gap.

Since an allegation of unauthorised construction and unauthorised use of a premises has been made, the Municipality is duty bound to cause an inspection of the impugned premises and to take steps in accordance with law.

In the light of the submissions made by the learned advocate for the respective parties, **WPA 2122 of 2025** stands disposed of by directing the competent authority of the Municipality to depute Officials for the purpose of inspection of the premises in question and take further steps in accordance with law.

The competent authority of the Municipality shall afford an opportunity of hearing to the petitioner, the private respondent or their authorized representatives and pass a reasoned order.

It will be open to the private respondent to produce materials in support of his contention.

Petitioner also will be at liberty to produce materials in support of his contention at the time of hearing before the competent authority.

The reasoned order shall be passed by the competent authority of the Municipality as expeditiously as possible but positively within a period of 8 weeks from the date of receipt of a served copy of this order.

The municipal authorities shall restrain the private respondent from carrying on any construction in deviation of the sanctioned plan in the meantime.

All parties shall act with the server copy of this order duly downloaded from the official website of this Court.

(Hiranmay Bhattacharyya, J.)