

11.06.2026
Ct. No.6
Sl. No.19
skg

C.O. 371 of 2026

Shri Sauparna Maity
Vs.
The Board of Councilors,
Contai Municipality & Ors.

Mr. Tanmoy Mukherjee, Adv.
Mr. Rudranil Das, Adv.

...for the petitioner

Mr. Soumen Kumra Dutta, Adv.
Mr. Subham Dutta, Adv.

...for the opposite parties

1. This revisional application is directed against an order dated January 20, 2026 passed by the learned Civil Judge (Jr. Div.), 1st Court at Contai in Misc. Appeal No. 10 of 2025 preferred against the order dated November 28, 2025 passed by the Board of Councillors, Contai Municipality under Section 218 of the West Bengal Municipal Act, 1993.
2. The opposite party no.3 had lodged a complaint against the petitioner alleging unauthorized construction. On the basis of such complaint, a proceeding under Section 218 of the West Bengal Municipal Act, 1993 was initiated and ultimately an order dated November 28, 2025 was passed thereby directing demolition of the unauthorized construction.
3. Assailing the said order the petitioner has approached the appellate authority being the learned Civil Judge (Jr. Div.), 1st Court at Contai by filing Misc. Appeal no. 10 of

2015. In the said Misc. Appeal the petitioner filed an application seeking stay of the operation of the order dated November 28, 2025 passed by the Board of Councillors, Contai Municipality. Such application of the petitioner has been rejected by the order impugned. Hence the present revisional application.

4. Mr. Mukherjee, the learned Advocate appearing for the petitioner has taken this Court through the various orders passed by a co-ordinate Bench of this Court on a writ petition being WPA 25526 of 2024 that had been filed by the opposite party no.3 alleging inaction on the part of Contai Municipality in initiating proceedings against the petitioner for alleged unauthorized construction and submitted that the Board of Councillors initiated and concluded the proceeding under Sections 217 and 218 of the West Bengal Municipal Act, 1993 in absolute hot haste under fear of contempt of the orders passed by this Court in the said writ petition.
5. He has placed the order dated November 28, 2025 passed by the Board of Councillors before this Court to demonstrate that the order has been passed without taking into consideration, the building plan that was duly submitted by the petitioner before the Chairman and the Board of Councillors on October 29, 2025.

6. It is submitted that the plan was very well there before the Board of Councillors prior to the order being passed and as such the same should have been considered. It is further submitted that the order clearly reflects non-consideration of the material on record when it observes that *“there is no building plan of the opposite party”*.
7. He further submits that the order impugned passed by the learned appellate forum indicates that the learned appellate forum has proceeded on the basis that it was the petitioner’s submission that the petitioner was not heard. Mr. Mukherjee contends that the petitioner’s case before the learned appellate forum was that the documents and material placed by the petitioner were not considered by the Board of Councillors.
8. It is submitted that the petitioner’s appeal itself would become infructuous, if, prior to the disposal of the appeal the demolition work is carried out.
9. Mr. Dutta, learned Advocate appearing for the opposite parties submits that the order impugned in appeal returns two findings as regards unauthorized construction. One is based that there is no building plan and the other is that there has been an unauthorised extension of slab to the extent of 450 m.m. such that the open space between buildings of the petitioner and the opposite party No.3 has been completely blocked from the ground floor to the second floor of the said buildings.

He submits that even if the petitioner's case of there being a building plan is assumed to be correct, there is no answer at the moment as regards the finding that the open space between the two buildings has been covered as indicated above.

10. In response to the submission made by Mr. Dutta, Mr. Mukherjee relies on Rule 32 of the West Bengal Municipal (Building Rules 2007) and submits that even if it is assumed that there has been an unauthorized extension, the petitioner is entitled to seek regularization thereof in terms of the aforesaid rules.
11. Heard the learned Advocates appearing for the respective parties and considered the material on record.
12. Upon perusal of the order dated November 28, 2025 it is clear that the Board of Councillors has returned two prominent findings. One is that the petitioner has not been able to produce any building plan and as such the building is illegal and the other is that the open space between the building of the petitioner and the opposite party No. 3 has been covered to be extent of 450 m.m starting from the ground floor up to the second floor.
13. There is prima facie substance in the submission of Mr. Mukherjee that the findings as regards there being no building plan has been returned without taking into consideration the building plan submitted by the petitioner. It appears from the document annexed at

page 31 of the revisional application that a building plan was submitted before the Chairman, Contai Municipality under the cover of a letter dated October 29, 2025.

14. Neither the said letter nor the said building plan finds any reference in the order dated November 28, 2025 passed by the Board of Councillors. Therefore, it would be required to be seen as to whether despite such building plan having been submitted by the petitioner, the Board of Councillors would still reach the conclusion that there was no building plan. It has not been recorded in the order impugned before the learned Court that the building plan that was submitted, was not in connection with the petitioner's building. This aspect therefore needs to be factually adjudicated by the learned appellate forum. To that extent, the petitioner appears to be entitled to an interim protection.

15. As regards the finding that the petitioner has unauthorisedly extended slab so as to cover the open space between the building of the petitioner and the opposite party no.3 to the extent of 450 m.m from ground floor to second floor, this Court does not find any prima facie case at the moment to direct stay of operation of the impugned order. In such view of the matter, the order passed by the learned Court in the petitioner's appeal needs modification.

16. Having regard to the prima facie case made out by the petitioner, there shall be stay of the order of demolition dated November 28, 2025 passed by the Board of Councilors to the extent it directs demolition of the entirety of the petitioner's building. However, it is clarified that there shall be no stay as regards the order of demolition of the unauthorized construction extension (as found by the order dated November 28, 2025) whereby 450 m.m open space between the buildings of the petitioner and the opposite party no.3 has been covered from the ground floor to the second floor of the said buildings. It is further clarified that non-grant of stay would not prevent the petitioner from pursuing any remedy that may be available to the petitioner in law for seeking regularization of the said unauthorized extension covering the 450 mm open space from ground floor to second floor between the petitioner's building and the opposite party No. 3's building. This Court also hastens to add that this observation would not be treated as passport to regularize the said unauthorized extension if the petitioner is not entitled to the same in accordance with law.

17. Such order of stay as indicated above shall continue initially for a period of one month from date. The learned appellate forum shall be free to extend such order or pass appropriate order in case the appeal is not

disposed of within the said time. The learned Court is requested to expedite the hearing of the appeal and dispose of the same as expeditiously as the business of the learned appellate forum would permit.

18. Accordingly, C.O. 371 of 2026 stands disposed of. There shall be no order as to costs.
19. Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Om Narayan Rai, J.)