

Item No.2
27.04.2026
Court. No. 12
GB

MAT 285 of 2026
With
CAN 1 of 2026
With
CAN 2 of 2026

Uttam Kumar Biswas & Anr.
Vs.
The State of West Bengal & Ors.

*Mr. Kaustav Banerjee,
Ms. Ria Kundu*

...for the Appellants.

*Mr. Swapan Kumar Datta,
Mr. Dipankar Das Gupta*

...for the State.

*Mr. Sounak Bhattacharyya,
Mr. Partha Sarathi Mondal,
Mr. Kingsuk Mondal*

...for the Respondent Nos.8 & 9.

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

In Re: CAN 1 of 2026

2. CAN 1 of 2026 is an application for condonation of delay of 12 days in filing the appeal.
3. Considering the averments in paragraphs 3 and 4 of the application, we are satisfied that the appellants were prevented by sufficient cause from filing the appeal within time.
4. Delay in filing the appeal is condoned.
5. Accordingly CAN 1 of 2026 is allowed.
6. Let the appeal be regularized.

In Re: MAT 285 of 2026

7. This is an appeal from an order dated January 6, 2026, passed by the learned Single Judge dismissing

the writ petition. The writ petition was filed challenging an order of the O.S.D. and Deputy Director of Health Services (Administration), West Bengal dated June 5, 2025. By the order, the complaint of the appellants against 'Maa Karunamoyee Nursing Home and Maternity Diagnostic Centre', situated at Raidighi Main Road, Post Office and Police Station – Raidighi, was disposed of with reasons and the allegation of the appellants that the centre was being run illegally by one Shibaprasad Patra without following the health norms, had been rejected.

8. The concerned authority passed the order based on the documents before him. However, it is contended by the appellants that the issue with regard to the conversion of the land from 'Sali' to 'Bastu' was the subject matter of a writ petition and another learned Judge had found that some portion of the land had not been converted. The matter had been relegated to the concerned Sub-Divisional Officer for proper consideration as to whether the construction of the nursing home could have been permitted on the basis of the conversion order dated March 10, 2022. In the said writ petition, further direction was also issued to the Sub-Divisional Officer to consider whether there were deviations, upon making proper inspection. The Sub-Divisional Officer is yet to

conclude the proceeding by taking appropriate steps as per the provisions of the statute.

9. Thus, the appellants contend that the order impugned before the learned Single Judge did not have any legs to stand on, in view of the specific findings of another Bench that part construction was raised on a 'Sali' land.
10. In our view, the decision which was impugned before the learned Single Judge was based on the records, insofar as, compliances with the relevant statute for running a nursing home or a diagnostic centre was concerned. However, the said authority did not have the jurisdiction to decide on the issue of conversion. Until there is a specific finding by the Sub-Divisional Officer on the basis of the order passed by another Bench of this Court and a conclusion is arrived at, that the construction is either illegal on account of being erected on a 'Sali' land or on the ground that there were deviations from the building plan and the rules were violated and minimum space between two constructions had not been left, the decision of the Deputy Director of Health Services cannot be faulted.
11. Under such circumstances, we are of the view that the order dated June 5, 2025 need not be interfered with at this stage. The said order will always be subject to the finding of the Sub-Divisional Officer as to whether the construction was on a 'Sali' land or

partly on a 'Sali' land and/or whether the construction was either in deviation of the plan or in deviation of the rules applicable for raising construction in a panchayat area. If it is found that the construction is illegal, the Sub-Divisional Officer will proceed in accordance with law. The steps to be taken by the Sub-Divisional Officer will be binding on the construction and the order of the OSD and Deputy Director of Health Services (Administration), West Bengal will not stand in the way of necessary steps to be taken in respect of an unauthorized construction, including demolition thereof.

12. The allegations of suppression, etc., made by the learned Single Judge are not interfered with at this stage because those are not relevant for the purpose of disposal of the appeal.
13. Accordingly, the appeal and the connected application being CAN 2 of 2026 are disposed of.
14. Urgent Xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)