25.11.2026
SL No.16
Court No.12
(gc)

MAT 351 of 2026
CAN 1 of 2026

Arabinda Banerjee
VS
The State of West Bengal & Ors.

Mr. Sanjib Seth,
Ms. Utsa Dutta
... for the Appellant.

Mr. Soumyajit Roy Choudhury,
Ms. Simika Roy
...for the Private Respondent.

Mr. Sandipan Banerjee,
Ms. Anushka Singh
...for the Durgapur Municipal Corporation.

1. Affidavit-of-service is taken on record.

2. We are not inclined to interfere with the order impugned. The allegations of the appellant before the writ court were as follows:-

    a) That the construction was made by the developers on the basis of an illegally and inappropriately obtained sanction plan. That the clearance from the Asansol Durgapur Development Authority (in short "ADDA") was also contrary to the provisions of the West Bengal Town and Country (Planning and Development) Act, 1979.

    b) Both the Municipal Corporation and ADDA failed to consider that the plot of land on which the construction was going on, could not be utilized for construction of a nine

storeyed building, as the same did not have any access from the main road.

c) That the construction was going on by way of forceful encroachment of the land of the appellant, and the developers were illegally treating such land, to be the access road/path.

3. Although, Mr. Seth, learned Advocate for the appellant submits that the appellant is also aggrieved in view of deviations from the plan, we do not find either from the writ petition or from the complaint lodged before the Municipal Corporation that the grievance was actually with regard to deviation. Although, the expression 'deviation' has been mentioned in paragraph 13 of the writ petition, we are unable to accept such contention in the absence of any specific allegation as to what was the nature of deviation. The main grievance was with regard to unavailability of an access road and grant of a sanction plan on the basis of misleading statements made by the developers, which was contrary to the rules.

4. Under such circumstances, His Lordship's order is not required to be interfered with, save and except that a modification is required. His Lordship has already granted liberty to the appellant to approach

the Municipal Corporation by challenging the grant of sanction itself.

5. We, however, find that the learned Advocate for the appellant issued a legal notice on March 5, 2025 to the Chairman and Commissioner of Durgapur Municipal Corporation as also to the Chairman, Asansol Durgapur Development Authority in which the allegations with regard to the illegal sanction and illegal clearance have been mentioned.

6. Under such circumstances, we modify the order of His Lordship to the extent that the appropriate authority of the Durgapur Municipal Corporation shall decide the question whether the sanction plan granted to the developers and the owners for the alleged construction, was in consonance with the building rules of the Corporation or not.

7. Asansol Durgapur Development Authority will also dispose of the said representation upon holding whether the said site could be used for construction as per the provisions of the law governing use of site and grant of clearance by ADDA, that is, in an area under the control of the development authority.

8. The appellant will forward the representation once again to the respective authorities as discussed hereinabove and the authorities shall pass a reasoned order upon hearing all the parties,

including the developer and the land owners in accordance with law. If necessary, an inspection shall also be made in the presence of the parties and a report of such inspection shall be handed over to the parties.

9. The allegation that there has been encroachment of the land of the appellant, is an issue with regard to the right, title or interest. However, such allegation will only be considered to assess whether there is any access road/path to the premises in question, apart from the land of the appellants or others which the developers are allegedly using.

10. The entire exercise shall be completed within two months from the date of receipt of the representation of the appellant.

11. Accordingly, the appeal and the connected application are disposed of.

12. However, there shall be no order as to costs.

13. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Shampa Sarkar, J.)

(Arjun Ray Mukherjee, J.)