

Item No.16
30.03.2026
Court. No. 12
GB

FMA 369 of 2026
With
CAN 1 of 2026

Bhaskar Sett & Anr.
Vs.
The State of West Bengal & Ors.

*Mr. Sujay Bandyopadhyay,
Mr. Dipankar Dandapath*

...for the Appellants.

*Mr. Sandipan Banerjee,
Mr. Ankit Sureka*

...for the HMC.

*Mr. Pinaki Dhole,
Ms. Ananya Neogi*

...for the State.

Mr. Sarbananda Sanyal

...for the Respondent Nos.8 to 10.

1. The order impugned dated February 11, 2026 passed in WPA 4279 of 2024 is under challenge. The writ petition was filed with the following prayers:-

“a) A writ of or in the nature of Mandamus do issue commanding the State respondents not to act basing on the said Development Power of Attorney dated 01.12.2023, being annexure ‘P-3’ herein which is a part and parcel of the said Agreement for Development dated 01.12.2023 being annexure ‘P -2’ herein in the matter of sanctioning the building plan of the proposed site at Holding no.33/1, Kaibartya Para Lane, Post Office – Salkia, Police Station – Malipanchghora, Ward No.6, Howrah Municipal Corporation, District – Howrah, PIN – 711 106;

b) A writ of or in the nature of Mandamus commanding the State respondents to

cancel and/or rescind the application for sanction of the plan for the construction at Holding no.33/1, Kaibartya Para Lane, Post Office – Salkia, Police Station – Malipanchghora, Ward No.6, Howrah Municipal Corporation, District – Howrah, PIN – 711 106;

c) A Writ of or in the nature of Mandamus commanding the State respondents to take all measures to prevent the private respondents from doing any illegality which is forbidden by law, or if it would defeat the provisions of the Howrah Municipal Corporation Act 1980 as well as the Building Rules applicable thereto and involves or implies injury to the person and property of another and is opposed to public policy;

d) A Writ of or in the nature of Mandamus commanding the State respondents to take all measure to protect the person and partitioned property of the petitioners from any act and deeds of the private respondents;

e) A Writ of or in the nature of Mandamus commanding the State respondents to cancel, rescind and/or quash and/or not to give effect the sanctioned plan if already sanctioned and/or granted in respect of the Holding no.33/1, Kaibarty Para Land, Post Office – Salkia, Police Station – Malipanchghora, Ward No.6, Howrah Municipal Corporation, District – Howrah, PIN – 711 106;

f) A Writ of or in the nature of Mandamus commanding the State respondents to take

cognizance of the fact that holding no.33 and 33/1 are joint portioned building having 'Single Roof', 'Kari-Barga' structure and as such, is there any attempt made to demolish the holding no.33/1, Kaibartya Para Lane, inevitably shall cause severe damage to the holding no.33, Kaibartya Para Lane, if not caused collapsing of the structure of 90 years old;

g) A Writ of or in the nature of Certiorari direction the respondents to certify as true and forthwith transmit all concerned records of the case so that upon security conscionable justice may be done by cancelling the sanction of the building concern;

h) Rule Nisi in terms of prayers (a) to (g) above;

i) If no cause or insufficient cause be shown, the Rule be made absolute;

j) Ad interim order in terms of prayer (a) to (f) above;

k) Leave under Rule 26 of the Rules of the Hon'ble High Court, Calcutta relating to the applications under Article 226 of the Constitution of India for dispensing with the service of notice and copy of the application upon the respondents prior moving the writ petition;

l) Appointment of Special Officer to investigate and report on the cause of the petition;

m) Costs of and incidental to the instant application be borne by the respondents;

n) Such further and/or other writ or writs do issue and or order or orders be passed

and/or direction or directions be given as Your Lordships may deem fit and proper.”

2. Prayer (a) was for a direction restraining the respondents, (wrongly described as State respondents), from acting on the basis of the power of attorney dated December 1, 2023 which was a part and parcel of the development agreement dated December 1, 2023.
3. Essentially, the appellants prayed for a writ in the nature of mandamus, restraining the Howrah Municipal Corporation from granting sanction for a building plan in respect of holding no.33/1, Kaibartya Para Lane, Post Office – Salkia, Police Station – Malipanchghora, Ward No.6, Howrah Municipal Corporation, District – Howrah.
4. The second prayer was for cancellation of the application for grant of sanction of the building plan. The third prayer was for a direction restraining the Corporation from allowing any illegal activities in the premises in question. The fourth prayer was for a writ in the nature of mandamus for the protection of the person and partitioned property of the appellants from any acts and deeds of the private parties. A further writ in the nature of mandamus was prayed, for setting aside any sanction that may be granted. The next prayer was for the writ court to take cognizance of the fact that holding no.33 and

33/1 were joint property, although partitioned, having a single 'Kari – Barga' roof and any attempt to demolish the structure on holding no.33/1, Kaibartya Para Lane would cause severe damage to holding no.33, Kaibartya Para Lane.

5. Mr. Bandyopadhyay, learned advocate for the appellants submits that during the pendency of the writ petition, the respondent nos.8 to 10 started demolishing the old structure on holding no.33/1, Kaibartya Para Lane. This demolition caused damage to a part of the property of the appellants which was allegedly joined at the roof.
6. Mr. Bandyopadhyay is aggrieved by the order of His Lordship on the ground that this aspect was not taken into consideration by His Lordship. Rather, the respondent nos.8 to 10 were granted liberty to approach the Howrah Municipal Corporation to seek permission for demolition of the old structure.
7. Mr. Banerjee, learned advocate for the corporation submits that before demolishing of the old structure, permission from the Corporation was necessary. Such permission was not taken. The respondent nos.8 to 10 had committed an illegality in continuing with the demolition without such permission.
8. Mr. Sanyal submits that the property was old and dilapidated and crumbled on its own. The property had collapsed.

9. We find that His Lordship has already directed stay of the demolition. His Lordship further recorded that the respondent nos.8 to 10 shall apply for permission to demolish the existing structure.
10. However, we find from the pleadings that the specific case of the appellants was that demolition would damage the appellants' area in possession and as such, the appellants had specifically prayed before His Lordship that the Corporation should be restrained from permitting demolition of the existing structure and should not grant a sanction to any plan in respect of a new construction to be raised on the area of the respondent nos.8 to 10.
11. We are of the view that His Lordship had rightly directed stoppage of any demolition work and had asked the Corporation to look into the matter, if application is filed by the respondent nos. 8 to 10 seeking permission to demolish. However, this direction does not *ipso facto* amount to grant of permission to demolish. While disposing of an application for permission to demolish the old structure, the Corporation will definitely look into the feasibility, security and safety of the area in occupation of the appellants, as it is alleged that the two portions were initially a part of the same structure and were connected at the roof, which was made of 'Kari – Barga'.

12. Thus, we modify the order impugned to the extent that while disposing of any application for permission to demolish the old structure, the Howrah Municipal Corporation will ensure that the appellants' structure which is allegedly connected through the roof with the structure sought to be demolished, is not damaged in any way and is sufficiently protected. Any competent engineer of the Corporation shall inspect the two buildings and on the basis of such inspection report decide how the demolition can be effected. The Engineer will also decide the mode and manner in which the demolition will be effected, without causing any damage to the appellants' premises. The inspection shall be held in the presence of the parties. What safeguards are to be adopted in the event permission for demolition is allowed, shall be taken into consideration. It will also be for the assistant engineer to find out whether, in the process of demolition which had allegedly taken place during the pendency of the writ petition, any damage had been caused to the appellants' property or not. If such damage is detected, the Corporation will call upon the respondent nos.8 to 10 to ensure repair of those damaged portions. While holding the inspection and deciding the issue, it shall also be seen whether, the building had automatically

collapsed and unless demolished, the existing structure may cause further injury and harm.

13. If the application seeking permission to demolish has been already filed the same shall be disposed of. If the application has not been filed, the respondents Nos. 8 to 10 will file the same within ten days from date.
14. A reasoned order will be passed, covering all the issues as discussed hereinabove, and the entire exercise shall be completed within eight weeks from date.
15. Before the decision is taken with regard to the demolition, all parties will be heard. We are not entering into the allegations and counter-allegations of the parties.
16. Accordingly, the appeal and the connected application are disposed of. The order impugned is modified.
17. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)