

Form No.J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 5084 of 2026

**Surojit Das & Ors.
Versus
The State of West Bengal & Ors.**

For the petitioners : Mr. Saptansu Basu, Sr. Advocate
Mr. Supriyo Chattopadhyay
Ms. Anasuya Bhattacharya

For the State : Mr. Amal Kumar Sen
Mr. Sayan Datta

For the Municipality : Mr. Ayan Banerjee
Ms. Debasree Dhamali
Ms. Riya Ghosh
Ms. Debolina Ghosh

For the respondent no.8 : Ms. Shebatee Datta
Ms. Poulamin Roy

Heard on : 30.03.2026

Judgment on : 30.03.2026

Raja Basu Chowdhury, J (Oral):

1. Affidavit of service filed in Court is taken on record.
2. The petitioners are aggrieved by the order dated 3rd February, 2026,
passed by Bally Municipality.

3. Mr. Basu, learned senior advocate representing the petitioners at the very outset by placing before this Court the aforesaid order would submit that though the municipality has taken a decision to initiate proceedings under the provisions of Section 218 of the West Bengal Municipal Act, 1993 (hereinafter referred to as the “said Act”), the basis of such decision has not been disclosed to the petitioners. By drawing attention of this Court to the above order he still further submits that though from the aforesaid order it would be apparent that a joint inspection of the subject premises was conducted, the report thereof was not supplied to the petitioners. Without supplying the report, the above decision has been taken. The petitioners have been denied of the opportunity to make appropriate representation in absence of disclosure of such report. In support of his contention that failure on the part of the municipality to supply relevant documents including the inspection report and the demolition sketch map, the entire demolition proceedings stands vitiated, reliance has been placed on the judgments delivered by the Coordinate Bench of this Court in ***W.P. No. 516 of 2006 (Laddu Gopal Bajoria vs. Kolkata Municipal Corporation & Ors.)*** reported in **2006 (4) CHN 136** and in ***WP 14942 of 2017 (Ashim Chakraborty vs. Kolkata Municipal Corporation & Ors.)*** reported in **2017 SCC Online Cal.15976**.
4. Mr. Banerjee, learned advocate appears on behalf of Bally Municipality and would submit that in the instant case the

municipality has only formed an opinion to initiate proceeding. Once, the proceeding is initiated the provisions of section 218 of the said Act comes into play.

5. Ms. Dutta learned advocate appears on behalf of the private respondent. According to her, the construction is entirely illegal and without any sanctioned building plan.
6. Having heard the learned advocates appearing for the respective parties, I find that the private respondent had previously filed a writ petition which was registered as WPA 11331 of 2024. The said writ petition was disposed of by an order dated 11th September, 2024. As would appear from the above, the said writ petition concerned the illegal construction raised by the private respondents therein who are the petitioners herein, at premises no. 256 & 251/1, Mirpara Road, Post Office Bhatta Nagar, Police Station – Liluah, Horwah. As would appear from the aforesaid order the Coordinate Bench had directed the municipality to take a decision in consideration of the representation made by the private respondent therein against the report filed by the municipality. It is in furtherance to the aforesaid order that the municipality by carrying out a joint inspection has passed the order dated 26th November, 2025. Although, Mr. Basu, learned senior advocate representing the petitioners has vehemently argued that in absence of the disclosure of the inspection report, the petitioners could not appropriately

place their case, I, however, find there is no contemporaneous document filed by the petitioners before the municipality seeking copy of the aforesaid inspection report, though the petitioners were represented in the hearing before the municipality.

7. Be that as it may, the order was passed upon hearing the parties and as submitted by Mr. Banerjee, learned advocate representing the municipality, the aforesaid inspection report was duly served on the petitioners along with notice issued under Section 218 of the said Act. In this context I may note that Mr. Basu has relied on the judgment delivered in the case of **Laddu Gopal Bajoria** (supra) and **Ashim Chakraborty** (supra). I find in both the aforesaid cases what was under challenge was the notice and the order issued under Section 400(1) of the Kolkata Municipal Corporation Act 1980 and not the opinion to initiate proceeding. It is in those facts that the Coordinate Bench in paragraph 5 of the judgment delivered in the case of **Laddu Gopal Bajoria** (supra) had been pleased to observed as follows:-

“5. This Court is still at a loss to understand as to why such a notice was served upon the complainants. However, the complainants replied to the said notice by their letter dated 29th December, 2005. The complainants in their said letter challenged the validity of the said notice on various grounds. According to them, the said notice is a vague one, as the said notice does not disclose and/or specify the portion of the construction which was illegally

constructed by the petitioners in the said premises. Non-supply of the précis detailing the unauthorized construction and non-disclosure of infringement of any specific building rules, was the other ground on which the validity of the said notice was challenged by the said complainants”.

8. Admittedly in this case the stage for passing the order is yet to arrive. I find as submitted by learned advocate representing the municipality that the petitioners have duly been served with the notice issued under Section 218 of the said Act. The matter is yet to be adjudicated. Prima facie, by looking at the provisions of Section 218 of the said Act it would transpire that the said provision authorizes the municipality to order demolition in certain cases as noted therein, at the same time clarifies that the order shall only be passed after the owner of the building is given an opportunity of hearing. Admittedly, in this case no order under Section 218 of the said Act has yet been passed. The municipality is under the process of determining whether the construction carried by the petitioners calls for an order to be passed under Section 218(1) of the said Act.
9. Having regard thereto, at this stage, in my view it is entirely premature for the petitioners to maintain the challenge since, no decision has yet been taken. The cause of action of the petitioners, if any, would only arise when a decision in this regard is taken by or without supplying the petitioners with appropriate documents. The Court cannot proceed on the basis of the apprehension.

Accordingly, the writ petition stands dismissed without any order as to costs.

Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)

SB
A.R. (Court)