

11.05.2026
SL No.18
Court No.12
(gc)

**FMA 382 of 2026
CAN 1 of 2026**

**Satarupa Ghosh
Vs.
Baidyabati Municipality & Ors.**

Mr. Indranath Mukherjee,
Mr. Sukanta Mondal

...for the Appellant.

Mr. Angshuman Chakraborty,
Mr. Shivaji Mitra

...for the Respondent Nos.9 & 10.

1. We do not find any irregularity in the order impugned. The appellant/petitioner alleged unauthorized construction by the private parties. His Lordship called for a report. His Lordship, upon perusal of the report, came to the conclusion that proceedings under Section 218 of the West Bengal Municipal Act, 1993 should be initiated by the municipality. We are of the view that, the municipality has the sole authority under the law to deal with unauthorized construction and the writ court had discharged its duty by relegating the matter to the municipality upon a, *prima facie*, finding that proceedings under Section 218 of the municipality Act, 1993 should be initiated.
2. His Lordship also directed that the municipality should ensure that no further illegal construction should take place and the matter should be reached to its logical conclusion in a

time bound manner. Paragraph 5 of the order impugned clearly indicates that the municipality should offer an inspection of the sanction building plan to the appellant, on the basis of which the construction had commenced.

3. In our opinion, inspection of the sanction building plan would suffice. The issues which have been raised by the appellant can be urged also upon inspection of the plan.
4. We modify the order of His Lordship to the extent that before hearing the parties, a physical inspection of the construction shall be made by a competent engineer of the municipality, in presence of the appellant as also the persons responsible for the construction.
5. A report of such inspection with measurements, shall be prepared and handed over to the parties. The findings shall be clearly delineated with a sketch map.
6. The parties will be entitled to deal with such report and file their written statement before the authority concerned.
7. Upon contested hearing, a decision shall be taken. If it is found that unauthorized construction had taken place, consequences will follow.
8. However, we leave it to the municipality to take a final decision in the matter, on the merits of the

issues involved, without making any factual observation.

9. All parties are at liberty to raise all questions before the concerned authority.

10. The order impugned is, accordingly, modified.

11. It is made clear that, as it appears from the report filed before the learned Single Judge that there has been deviation, any action taken with regard to sale or transfer of any portion of the construction, shall abide by the final decision of the municipality.

12. We are not inclined to enter into the issues which are being raised for the first time in the appeal and in respect of which writ petitions are pending at the instance of the respondent Nos. 9 and 10.

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

14. There shall be no order as to costs.

15. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)