

Item No.11
01.07.2026
Court. No. 12
GB

MAT 428 of 2024
With
CAN 1 of 2026

Suman Mondal & Ors.
VS
Sk. Sahabuddin & Ors.

Mr. Aniket Mitra

...for the Appellants.

Mr. Moidul Islam Koyal

...for the Respondent No. 1.

1. Affidavit-of-service and supplementary affidavit filed in Court today, are taken on record.
2. Despite service, none appears either for the municipality or for the state respondents.

In Re: CAN 1 of 2026

3. This is an application for condonation of delay of 10 days in filing the appeal.
4. Having considered the averments stated in paragraphs 6 and 7, we are satisfied that the delay has been explained properly.
5. Accordingly, the delay is condoned.
6. CAN 1 of 2026 is allowed and disposed of.
7. The appeal is regularized.

In Re: MAT 428 of 2024

8. We do not find any reason to interfere with the order impugned. The writ petitioner had approached the learned Single Judge with a prayer that the gram panchayat be directed to take steps in respect of the unauthorized construction of the appellants. According

to the writ petitioner, the construction of the appellants had encroached upon a public land and a public footpath.

9. Upon perusal of the documents, Her Lordship was of the view that, the factual disputes could not be gone into by the writ court. The Budge Budge Municipality was directed to look into the matter and come to a final decision as to whether any unauthorized construction had taken place. Her Lordship had also directed that the parties should be heard. Prior to any decision being taken, a spot inspection was directed to be held in the presence of the parties, in order to ascertain the exact nature and extent of the unauthorized construction. It was further directed that any private dispute between the parties, will not be decided by the municipality.
10. Mr. Mitra, learned advocate for the appellants submits that the encroachment from the public land and footpath, had been removed, as per the report of the Block Land and Land Reforms Officer.
11. We are of the view that the factual aspects which Mr. Mitra has brought on records, has to be decided by the municipality. The municipality had already been directed to look into the matter and we trust that the municipality will conclude the proceedings by passing a reasoned order. The Municipality will decide whether there has been any unauthorized construction and if so, whether any part of such construction is on a public land/footpath. As the right of the appellants to be heard

has been protected, the documents which Mr. Mitra seeks to rely upon, may be filed before the municipality and accordingly, the municipality will consider all the documents and submissions of the respective parties and take a decision. The decision will be communicated to the parties. The decision shall also disclose reasons. The proceeding shall be reached to its logical conclusion, only upon considering all relevant documents of the respective parties.

12. Accordingly, the appeal and the connected application are disposed of.
13. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)

(Smita Das De, J.)