

20.04.2026

sayandeep
Sl. No. ML 28
Ct. No. 03

WPA 6595 of 2026

Debi Prasad Halder
Vs.
The State of West Bengal & ors.

Mr. Pranit Bag
Mr. Anuj Kumar Mishra
Mr. A. Das
Mr. B. Patra

.... For the petitioner

Mr. Ashim Kr. Ganguly
Mr. Bellal Shaikh

..... for the State

Mr. Gautam Lahiri

.... For the respondent Nos. 2-3

1. The affidavit-of-service filed in Court today is taken on record.
2. Challenging an order dated 10th February, 2026 passed by the Chairman Board of Councilors, Serampore Municipality in terms of the directions passed in WPA 3806 of 2025 (Shri Debabrata Ghosh v. State of West Bengal & ors.), the instant writ petition has been filed.
3. The petitioner claims to be the owner of a plot of land/holding No. 3/H, Lelin Sarani, Mallickpara, P.S. Serampore, Hooghly. Records would reveal that the private respondent being the respondent No. 9 had made a complaint before the municipality alleging that a coconut tree which has been planted within the premises of the petitioner has leaned on to the private respondent's property and is damaging

the property of the private respondent. It is in those circumstances, in a writ petition at the behest of the respondent no.9, a Co-ordinate Bench of this Court by an order dated 28th November, 2025 had directed the Chairman of the concerned municipality to take an informed decision in the matter strictly in accordance with law with a further direction that he shall ensure that both the property of the private respondent who was the petitioner therein and coconut tree are safe even if it is found that the private respondent's case who was a petitioner therein to be meritorious.

4. Pursuant to the above, the municipality appears to be given a hearing and passed a reasoned order. The reasoned order passed by the municipality is subject matter of challenge in the writ petition. Mr. Bag learned advocate representing the petitioner raises a question of authority of the municipality to decide on the above issue and at the same time would submit that the order is unreasoned.
5. The municipality is represented.
6. Having heard the learned advocates appearing for the respective parties, I find that the in the instant case, a decision was rendered by a coordinate Bench under extraordinary circumstances by compelling the municipality

to exercise its powers under Section 328 of the West Bengal Municipal Act, 1993 (hereinafter referred to as the “said Act”) and to take a decision in the matter. Neither the petitioner nor the private respondent preferred an appeal therefrom. On the contrary, the parties proceeded and participated in the hearing before the municipality. Since, the petitioner did not succeed, today the petitioner seeks to question the authority of the municipality to take a decision. It may be noted that the petitioner has not preferred any Appeal from the order passed by the coordinate Bench on the contrary as noted above, has participated in the proceedings.

7. Having regard thereto, I am of the view that since an order has been passed by the Coordinate Bench which has been worked out, without any objection from any of the parties, there is no scope for this Court to hold that the municipality had no authority to pass the order that to in collateral proceedings especially when there is no inherent lack of jurisdiction.
8. Going on the merits of the case, I find that the order impugned is unreasoned. By the order impugned, the municipality has also directed that the coconut tree should be removed. The aforesaid order also appears to have been

passed without considering the directives of this Court in its order dated 28th November, 2025 especially those noted in paragraphs 12 and 13 wherein the Court had made it clear that the above order should not be treated as a mandate to cut down the coconut tree and with a further direction that steps to be taken by the municipality should ensure that both the property of the petitioner that is the private respondent herein as well as the coconut tree are safe. On this ground, I find that the petitioner would submit that the coconut tree which has leaned on to the private respondent's property can very well be brought back by tying the same with a rope to the upper floor portion of the petitioners' premises. This appears to be a possibility. The order does not reflect whether any such possibility or any other possibility has been explored. The order is also unreasoned and appears to be harsh. Accordingly I am of the view that order passed by the municipality dated 19th February, 2026 which is otherwise unreasoned should be revisited and is accordingly set aside. The petitioner is granted liberty to take appropriate measures so that the tree which is leaning on to the adjacent property is brought back and does not interfere with the right of enjoyment of the property by

the private respondent. The municipal authorities are directed to carry out an inspection after 6 weeks from the date of communication of this order with notice to all the parties and to decide on the issues strictly in accordance with directive issued by the Coordinate Bench on 28th November, 2025 within four weeks therefrom. In the meantime the petitioner must also take remedial measures.

9. With the above observations and directions, the writ petition is disposed of.

(Raja Basu Chowdhury, J.)