

Item No.11
13.04.2026
Court. No. 12
GB

MAT 657 of 2026
With
CAN 1 of 2026
With
CAN 2 of 2026

Mahuya Dutta
Vs.
The State of West Bengal & Ors.

Mr. Debapriya Majumder

...for the Appellant.

Mr. Sanjay Mukherjee

...for the Respondent Nos.7 & 8.

Affidavit-of-service filed in Court today, is taken on record.

In Re: CAN 1 of 2026

1. CAN 1 of 2025 is an application for condonation of delay of 27 days in filing the appeal.
2. Considering the averments in paragraphs 3 to 5 of the application, we are satisfied that the appellant was prevented by sufficient cause from filing the appeal within time.
3. Delay is condoned.
4. Accordingly CAN 1 of 2026 is allowed.
5. Let the appeal be regularized.

In Re: MAT 657 of 2026

6. Despite service, none appears on behalf of the municipality.
7. The appeal arises out of an order dated February 11, 2026, passed in WPA No.14118 of 2025. The appellant claims to be a co-sharer of a property

situated at No.B-4, 111/C/New, Shibrampur Road, Police Station – Maheshtala, Kolkata – 700 143 under Maheshtala Municipality, Ward No.13, appertaining to R.S. Dag Nos.338 and 339 corresponding to L.R. Dag Nos.431 and 425 under R.S. Khatian Nos.647 and 886 having J.L. No.1, Touzi No.346 within Mouza - Gopalpur, District – South 24 Parganas.

8. According to the appellant, the municipality had declared a building standing on the said premises to be dilapidated and unsafe. The appellant also engaged a civil engineer and the report of the engineer was placed before His Lordship, indicating that the building was unsafe.
9. The respondent nos.7 and 8 on the contrary had produced some photographs of the building in support of their contention that, parts of the building required repair and the respondent nos.7 and 8 had undertaken the repair. The question of demolition of the entire structure did not arise as the building was habitable.
10. In view of the rival contentions of the parties, which were factual in nature, His Lordship was of the view that the municipality would be the appropriate authority to determine whether the building was unsafe and in a dilapidated condition or whether the entire building was required to be demolished or partly demolished or whether repairs of the existing

structure would restore the building and make it habitable.

11. Under such circumstances, we do not find any illegality in the order impugned.
12. The learned advocate for the appellant submits that a special officer should be appointed by us and be directed to file a report. We are of the view that the municipality has its own engineers who are experts and would be in better position to decide about the structural stability and safety of the building. The grievances of the parties can be addressed only by the municipality.
13. Under such circumstances, as the appellant has already approached the municipality and a date has been fixed for hearing, we dispose of the appeal with the following directions:-
 - a) The parties will appear before the municipality on the date fixed.
 - b) A team from the municipality, comprising of competent engineers, licensed building surveyor and sub-assistant engineer, independently chosen by the municipality, shall cause an inspection along with the parties with regard to the allegations and counter-allegations made in respect of the condition of the building.
 - c) A report shall be prepared and handed over to the parties.

d) Photographs shall be taken and annexed to the report.

e) Parties will be at liberty to make their respective submissions and adduce oral and documentary evidence in support of their contention. Thereafter, a reasoned order shall be passed and accordingly, the municipality shall decide the best course of action to make the building habitable or if repairs would not make the building safe, in that event, necessary order shall be passed in accordance with law .

f) The entire exercise shall be completed within a period of eight weeks from the date of first hearing.

14. The interested parties and affected parties are before us and we dispose of the appeal in their presence. None appears for the Municipality, despite service.
15. Accordingly, the appeal and the connected application being CAN 2 of 2026 are disposed of. The order impugned is accordingly modified.
16. Urgent Xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)