

Item No.22
12.05.2026
Court. No. 12
GB

FMA 568 of 2026
With
CAN 1 of 2026

Chaina Das
Vs.
The State of West Bengal & Ors.

Mr. Abhimanyu Banerjee,
Mr. Sayan Mistri

...for the Appellant.

Mr. Dibasish Basu,
Mr. Samrat Ghosh

...for the Respondent No.10.

1. Affidavit-of-service filed in Court today, is taken on record.
2. Despite service, none appears on behalf of Jangipur Municipality.
3. The order impugned is modified as hereunder:-
 - a) The writ petitioner, Anjali Saha will file a detailed application before the concerned municipality, indicating the exact nature of her allegation with regard to the construction of the appellant, Chaina Das
 - b) On receipt of such representation of Anjali Saha, the municipality will constitute a team, including an engineer, to cause an inspection of the construction of the appellant.
 - c) The inspection shall be held in the presence of both the parties and the

inspection report will clearly indicate whether the construction is in accordance with the sanction plan granted by the municipality and in consonance with the building rules or not.

d) A copy of the report shall be supplied to the respective parties. The parties shall be entitled to file their written objection to such report.

e) A copy of the representation of the writ petitioner, Anjali Saha will also be handed over to the appellant by the municipality. Thereafter, a hearing shall be held and a reasoned order shall be passed.

f) If the municipality finds any construction beyond the plan and/or in contravention to the building rules, in that event, proceedings under Section 218 of the West Bengal Municipal Act, 1993 shall be initiated and reached to its logical conclusion which will also include demolition.

g) With regard to the allegation of obstruction of the right of way as also the obstruction of air and light, the municipality will only enter into the dispute if it is found that the construction is beyond the plan and

had extended beyond the premises of China Das.

h) The municipality will deal with the construction/constructions of the appellant and enquire whether the same is either without plan or in deviation of the plan or in contravention to the rules, including not leaving adequate side spaces as required under law.

i) The observations of the learned Judge with regard to the encroachment, etc., shall not be looked into. However, if it is found that the construction is on the common space which will naturally imply that the construction is contrary to the sanction plan, in that event the municipality can take steps. Otherwise, the municipality will not enter into the question of right, title, interest or possession.

4. The municipality shall act and proceed independently as per the directions made hereinabove.
5. The application of Anjali Saha shall be filed before the municipality within 10 days and the municipality will complete the entire exercise as directed by us, within a period of six weeks thereafter.

6. With the above observations, the appeal and the connected application are disposed of.
7. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)