

12.03.2026
Ct. 3
Item No.
AD 14
Saswata

WPA 8826 of 2025

**Saugata Chakraborty
Versus
Baranagore Municipality & Ors.**

Mr. Anjan Ray
Mr. Subhajit Chowdhury
Ms. Swagata Laxmi Nalui

...For the petitioner

Mr. Ranajit Chatterjee
Ms. Monimala De Basu
Mr. Arijit Dey

...For the Baranagore Municipality

1. On 11th December 2025 this Court, taking note of the failure on the part of the Municipality to adhere to the directives of the order dated 29th August 2023, had passed the following order.

1. Affidavit of service filed in Court today is retained with the record.

2. The petitioner is aggrieved with the non compliance of the order dated 29th August 2023. According to the petitioner, though the Coordinate Bench of this Court had directed Baranagar Municipality to cause an inspection of premises no. 9/1 Kalicharan Ghosh Road, Kolkata – 700050 upon serving notice to the respective parties. Nothing in this regard has been done. The learned advocate appearing for the municipality is also unable to enlighten this Court whether any steps have been taken by the municipality or not.

3. Having heard the learned advocates appearing for the respective parties, I find that the petitioner is in fact aggrieved with the private respondents' not maintaining the side open space from the boundary wall. Since, from the photographs disclosed by the

petitioner appearing at page 41 of the writ petition the distance between the two buildings cannot be ascertained, I am of the view that the municipality should engage a Sub Assistant Engineer who shall take measurements of the open space between the boundary wall and the respective building situate at premises no. 9/5/1 Kali Charan Ghosh Road and 9/1 Kali Charan Ghosh Road and file a report when the matter is taken up next. He should also identify whether there is any infraction of any building rule. The Municipality is also directed to file a report as regards the steps taken by the municipality pursuant to the order dated 29th August 2023.

*4. List this matter as “returnable motion” on **4th February 2026.**”*

2. Since then, when the matter came up for consideration on 9th February 2026 the Municipality did not bother to respond. No report was also filed. It is under the circumstances as aforesaid, this Court had directed the respondent no. 3 to be personally present before this Court and explain as to why the direction as regards filing of the report has not been complied with. By such order, the Court also provided that in the event the report as directed was filed, the respondent no. 3 may not be personally present before this Court. On the subsequent date i.e. on 11th March 2026 when the matter was taken up for consideration, neither was the report filed nor was the respondent no. 3 personally present before this Court. Accordingly, this Court directed the respondent no. 3 to be

personally present before this Court along with the report on 12th March, 2026 i.e. today at 2.00 p.m.

3. When the matter was taken up for consideration today, an affidavit affirmed by one Ms. Aparna Moulick, claiming to be the Chairperson of Baranagore Municipality has been filed wherein, for the first time it has been stated that there is no permanent Executive Engineer of Baranagore Municipality and that the Sub Assistant Engineer is only the permanent post in the engineering department of the Municipality. The chairperson, however, did not bother to explain in the aforesaid affidavit why the order dated 29th August 2023 which directed the municipality to depute a competent officer and cause an inspection of the premises being 9/1 Kalicharan Ghosh Road, Kolkata and on the basis on such inspection if it is found that the construction has been made in violation to the rules, to take appropriate steps, was not complied with.

4. The Chairperson of the Municipality is personally present in Court, she through her learned advocate Mr.Chatterjee submits that there is no permanent Executive Engineer of the Municipality. The post, however, is not entirely vacant but the same is occupied by one Debesh Das, who is an employee of the State Government and is on deputation. According to her, in absence of the Executive Engineer, there are three other Sub Assistant Engineers apart from Sudeep

Sarkar, who is also personally present in Court and looks after the engineering department in absence of Debesh Das.

5. Mr. Chatterjee, learned advocate for the Baranagar Municipality would, however, submit that the orders, which have been passed by this Court on 11th December 2025, 9th February 2026 and 11th March 2026 have not been communicated to Debesh Das.

6. Independent of the said affidavit, a report has, however, been filed in Court today. Such report has been signed by one Sudeep Sarkar, Sub Assistant Engineer of the Municipality. Along with the said report, a document captioned as '**Baranagar Municipality Notes and Order**' bearing the cause title of the present writ petition has also been disclosed which has been prepared and signed by Sudeep Sarkar, the same records "*The communication dated 05.09.2023 was not traceable in the file no step could be taken on the basis of the solemn order dated 29.08.2023*".

7. In the report dated 15th January 2026 the aforesaid Sub Assistant Engineer has, however, noted that on 9th January 2026 an inspection was conducted at premises no. 9/1, Kalicharan Ghosh Road, Kolkata 700050. The inspection would reveal that the

construction has not been made in accordance with the sanctioned building plan.

8. It is unfortunate that despite the order being passed by a Coordinate Bench of this Court on 29th August 2023 the Municipality chose to ignore it by, inter alia, claiming that the communication dated 5th September 2023 was not traceable in the file. Mr. Sudeep Sarkar, the Sub Assistant Engineer has recorded the same in his report. Incidentally, Sudeep Sarkar despite being conscious of the present proceeding and the order dated 29th August, 2023 which formed part of the present petition and is annexed at page 24 of the writ petition, chose not to act on the basis thereon until 9th January 2026. The Chairperson of the municipality has also not provided any explanation why no steps had been taken by the municipality in furtherance to the above order. Even after the aforesaid joint inspection, the municipality has chosen not to take any further steps despite the order being passed by a Coordinate Bench of this Court directing the Municipality to proceed. No explanation is forthcoming from either the Chairperson or from the Sub Assistant Engineer present in Court as to why no further steps have been taken in furtherance to the report dated 9th January 2026.

9. As regards the personal appearance of the respondent no. 3 and the compliance of orders by him, since as per the submission made by the learned advocate appearing for the municipality and from the statements made by the Chairperson and Sudeep Sarkar that Debesh Das is the person in charge of the respondent no. 3 and though it was obligation of the said Debesh Das to take step and file a report, the said Debesh Das was, however, not aware of the order, the matter need not be proceeded further insofar as the respondent no. 3 is concerned.

10. At the same time it must be noted that the conduct of both the Chairperson as also the Sub Assistant Engineer of the municipality is unacceptable, questionable and alarming to say the least.

11. However, since, at this stage both the Chairperson and the Sub Assistant Engineer, Sudeep Sarkar undertake that immediately steps would be taken to initiate proceedings under Section 218 of the West Bengal Municipal Act, 1993 in compliance of the direction passed by a Coordinate Bench of this Court on 29th August 2023, and they would not repeat their conduct in future, this Court is of the view that no fruitful purpose will be served in keeping the writ petition pending.

12. Accordingly, the above writ petition is disposed of on the basis of the undertaking given by the Chairperson of the Municipality and Sudeep Sarkar, Sub Assistant Engineer of the Municipality that the direction issued by a Coordinate Bench of this Court on 29th August 2023 shall be complied with as expeditiously as possible, preferably within 8 weeks from the date of communication of this order.

All parties shall act on the basis of the server copy of the order duly downloaded from this Court's official website.

(Raja Basu Chowdhury, J.)