

05.05.2026
Sl No.3
Court No.12
(gc)

MAT 724 of 2026
CAN 1 of 2026
CAN 2 of 2026

Shivsakti Construction
Vs.
Provash Chandra Chakraborty & Anr.

Mr. Arindam Banerjee, Sr. Adv.,
Mr. Sumitava Chakraborty

...for the Appellant.

Mr. Sandipan Banerjee,
Mr. Ankit Sureka

.....for the H.M.C.

Mr. K.K. Chakrabarti,
Mr. Aman Gupta,
Mr. Ishan Bhattacharya

.... for the Respondent No.1.

1. The application for leave to appeal being CAN 2 of 2026, is allowed as it is evident that the applicant was not a party to the contempt proceeding, but the order of demolition was passed in respect of the applicant's unauthorized construction of the fourth floor.
2. The appeal is registered.
3. However, in view of the withdrawal of appeal being MAT 676 of 2026 arising out of WPA 27775 of 2025 wherein another Coordinate Bench held that nothing prevented the Corporation from demolishing the fourth floor, this appeal is infructuous.

4. The appellant has withdrawn the appeal after lengthy arguments, and as such, the decision arrived at by another learned Judge in WPA 27775 of 2025, has attained finality. The operative portion is quoted below:-

“10. Having heard the learned advocates for the respective parties and upon going through the materials on record, I find that since the Co-ordinate Bench of this Court has already directed the Commissioner, Howrah Municipal Corporation to take a decision on the petitioner’s representation with a further direction that the portions up to the third floor shall not be demolished prior to taking of such decision, I am of the view that there is no scope for the municipal authorities to proceed with the demolition up to the third floor at this stage. At least, till such time, the decision in this regard is communicated to the petitioner. Insofar as the fourth floor is concerned, the petitioner cannot resist the demolition thereof.

11. Accordingly, the municipal authorities are free to proceed with the demolition of the fourth floor, which is completely unauthorized as liberty has already been granted to the corporation to proceed with the demolition thereof.”

5. We do not find any reason to interfere with the order of Her Lordship, passed in a contempt proceeding. Moreover, we are also of the opinion that when a writ of mandamus was issued upon the

Corporation to ascertain whether there was any unauthorized construction and thereafter act and proceed in accordance with law, it meant that, provisions of the law under Section 177 of the Howrah Municipal corporation Act, should be complied with.

6. By the order impugned, Her Lordship directed demolition of the balance unauthorized portion and not the portion in respect of which, an application for consideration of the 'As-Made' plan is pending. As a natural consequence of a finding that unauthorized construction had taken place, demolition is to be effected. The order cannot be faulted.
7. Her Lordship had not specifically mentioned the word 'demolition' in Her Lordship's order, but had directed that steps shall be taken in accordance with law.
8. Accordingly, the appeal and the connected application being CAN 1 of 2026 are dismissed.
9. There shall be no order as to costs.
10. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)