

31.05.2026
Item No.1
Court No.8
CHC

In The High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side

MAT 939 of 2026
IA NO: CAN/1/2026

Mausumi Roy & Anr.
Vs.
Howrah Municipal Corporation & Ors.

Mr. Rahul Karmakar, Advocate
Mr. Rishov Das, Advocate
...for the appellants

Mr. Sandipan Banerjee, Advocate
(in virtual platform)
...for the Howrah Municipal Corporation

1. Appeal is directed against order dated May 29, 2026 passed in WPA 12113 of 2026.
2. By the impugned order, the learned Single Judge noted that, the appellants before us challenged an action of the Howrah Municipal Corporation initiated on the basis of the order dated April 9, 2026 passed by another learned Single Judge in CPAN 1534 of 2024 arising out of WPA No.25314 of 2023.
3. The learned Single Judge dismissed the writ petition after holding that, the subject-matter of the writ petition was governed by the order of another learned Single Judge.
4. Learned advocate appearing for the appellants submits that, the appellants are owners of one flat on the top floor of a building. He submits that, Howrah Municipal

Corporation did not issue any notice of demolition to his clients. He submits that, appellants are entitled to a right of hearing. In support of such contention, he relies upon 2024 SCC OnLine 3291 (In Re: Directions in the matter of demolition of structures).

5. Howrah Municipal Corporation is represented.
6. We find from the records that, two writ petitions being WPA 25314 of 2023 and WPA 26999 of 2023 were filed relating to unauthorized construction of a building lying and situate within the jurisdiction of Howrah Municipal Corporation.
7. Both those writ petitions were disposed of by the learned Single Judge on March 7, 2024.
8. Subsequent to the order dated March 3, 2024, a contempt petition was filed being CPAN 1534 of 2024 in WPA 25314 of 2023.
9. In such contempt petition an order dated April 9, 2026 was passed by the learned Single Judge. Relevant portions of the order dated April 9, 2026 are as follows:-

“2. Report of the Howrah Municipal Corporation dated 9th April, 2026 signed by the Assistant Engineer, Demolition (Building Department) and the Assistant Engineer (Building Department) of the Howrah Municipal Corporation in Court today be retained with the records.

3. It appears therefrom that the building in question is a ground plus four storied structure. Sanction was accorded to ground plus three storied building. Deviation has been found on all the floors from the ground floor to the third floor. The fourth floor has been constructed without any sanctioned plan.

4. Self-demolition notice had been issued but the same has not been complied with. An 'As-made' plan upto third floor has been submitted before the authority for taking decision on the same. Pending consideration of the as-made plan the Corporation has proceeded to demolish the fourth floor. Only partial demolition could be made. The balance still remains.

5. The Corporation is directed to proceed with the demolition of the balance unauthorized construction of the fourth floor till a decision is taken on the as-made plan.

6. Re-list the matter on 11th June, 2026.

7. An updated report shall be placed before this Court on the adjourned date.”

10. A fresh writ petition was filed being WPA 12113 of 2026 in which, the impugned order was passed.

11. In the earlier two writ petitions, two neighbours, complained of unauthorized construction against each other. WPA 26999 of 2023 is the writ petition at the behest of the owners of the land on which, the present unauthorized construction stands erected. Appellants before us, claim that, they purchased the top floor of the building erected on such land from the writ petition of WPA 26999 of 2023 by a registered deed of sale dated November 21, 2025. The purchase was made subsequent to the order March 3, 2024.

12. Therefore, the appellants cannot claim the better or higher title or rights than the owners of the land on which, unauthorized construction stands erected.

13. The first order of the learned Single Judge dated March 7, 2024, required Howrah Municipal Corporation to

enter into the allegations of unauthorized construction and to arrive at a decision on such allegations. Howrah Municipal Corporation undertook such exercise in terms of the order dated March 7, 2024.

14. In the contempt petition, Howrah Municipal Corporation submitted a report dated April 9, 2026. Such report stated that, there is a building erected of G+4 storied while, sanction was granted for G+3.

15. Learned Single Judge, in the contempt petition passed the order dated April 9, 2026, which we noted above. It would appear from the paragraph-3 of such order, that deviation was found on all the floors from the ground-floor to the third floor. The fourth-floor was erected without any sanctioned plan.

16. It is in this context that, contentions of the appellants are required to be adjudged. Claim that, the appellants were not given any notice, by Howrah Municipal Corporation cannot be accepted on the following reasons.

17. The appellants before us are not claiming any title higher or better than the writ petitioners of WPA 26999 of 2023 where, the exercise of looking into the allegation of unauthorized construction was directed to be undertaken by Howrah Municipal Corporation. Such exercise as noted above, was undertaken. It was found in such exercise that, the entire top floor of the building erected was found unauthorized. Moreover, every

decision of the State need not be preceded by a hearing prior to such decision being taken. It is trite law that, the person who is claiming violation of *principles of natural justice* must establish prejudice caused by such alleged violation.

18. In the facts and circumstances of the present case, we find that, the initial order dated March 7, 2024 passed in WPA 25314 of 2023 and WPA 26999 of 2023 was not challenged by the appellants before us. The appellants purchased subsequent to such order. The order dated April 9, 2026 passed in CPAN 1534 of 2024 was also not challenged by the appellants before us.

19. ***In Re: Directions in the matter of demolition of structures (supra)*** Supreme Court, considered the issue of demolition being undertaken without adequate and proper notice being issued. We find that, in the facts and circumstances of the present case, the owners of the land was given notice by the Howrah Municipal Corporation. Howrah Municipal Corporation undertook the exercise of evaluating whether the structure erected was authorized or not. There is no material before us to suggest even remotely that the top floor over which the appellants claim title is an authorized construction. Appellants cannot claim that, the unauthorized construction of top floor be regularized purely on the basis that appellants made investment on the top floor.

20. Howrah Municipal Corporation undertook the exercise of considering the allegations of unauthorized construction at the building concerned pursuant to the order dated March 7, 2024 passed in two writ petitions. Appellants before us are purchasers subsequent to such order. Howrah Municipal Corporation submitted a report before the learned Single Judge in the contempt proceeding which was taken note of on April 9, 2026. Appellants did not challenge those two orders. Appellants, therefore, cannot now be heard to say that they were not given notice of the demolition proceeding.

21. We find no ground to interfere with the impugned order.

22. **MAT 939 of 2026** along with connected application are **dismissed** without any order as to costs.

23. At this stage, learned advocate appearing for the appellants submits that, the developer who is the respondent no.7 should be directed to make necessary arrangements for alternative accommodation to the appellants.

24. We enquired of the learned advocate for the appellants as to whether, such prayer was made in the writ petition or not. The answer is in the negative. He further submits that, the Court may mould the prayer made in the writ petition to issue such direction.

25. We are not minded to issue such directions in the facts and circumstances of the present case, since the entirety of the top floor is thoroughly unauthorized. However,

this order will not prevent the appellants from availing of their remedies before the appropriate forum against any of the private respondents in this regard.

(Debangsu Basak, J.)

(Reetobroto Kumar Mitra, J.)