

WPA 12276 of 2026

Matiur Rahman Khan
Versus
The State of West Bengal & Ors.

Mr. Sanjib Seth

... For the petitioner.

Ms. Chandreyi Alam, Ld. AGP
Ms. Ranu Mukherjee

... For the State.

Mr. Sandipan Banerjee
Ms. Utsa Dutta

..... for the HMC

1. The present writ petition has been filed, inter alia, praying for revocation of the notice dated 27th May, 2026 issued by the municipal authorities threatening demolition. The petitioner claims that one Swapna Ghosh wife of late Panchanan Ghosh along with Maitreyee Adhikary, Karabi Kulavi both are daughter of late Panchanan Ghosh, along with Biswanath Ghosh son of late Baidyanath Ghosh, Manjula Ghosh wife of late Rabindranath Ghosh of 3/1, Nagpara Lane, Post Office and Police Station-Shibpur, Howrah, 711102, are the joint owners of the holding being No. 3/1, Nagpara Lane, Post Office and Police Station-Shibpur, Howrah, 711102 which false within new ward No. 43 of the HMC (hereinafter referred to as the said premises).
2. According to the petitioner, the owners entered into a development agreement with the petitioner

on 3rd January, 2026 authorizing the petitioner to construct a multi storied building in the said premises.

3. The petitioner states that the pursuant to the development agreement, a power of attorney was also executed. Upon obtaining the sanctioned building plan from the municipal authority for constructing G+2 storied building, the petitioner has commenced construction. The petitioner claims to have invested a huge sum of money for construction of the building at the above premises. Unfortunately, all on a sudden, on 27th May, 2026, a demolition squad of the HMC along with the police came to the aforesaid premises with the intent to demolish the construction. The learned advocate for the petitioner would submit that no prior notice was issued apart from the notice dated 27th May, 2026. The action taken by the municipal authorities is de hors the provisions of law. The petitioner is entitled to a notice of hearing as is contemplated under Section 177 of the HMC Act, 1980 and Rules framed thereunder.
4. Ms. Alam, learned advocate appears for the State and would submit that the construction beyond the G+2 sanctioned plan is unauthorized.
5. Mr. Banerjee, learned advocate appears for the HMC and would submit that way back in the year 1994, the municipal authorities had received the

first complaint as regards illegal construction being carried out. Subsequently, from time to time several complaints have been lodged regarding the unauthorized construction as regards the above premises. In the circumstances as aforesaid, a stop work notice was issued and later a five storied building having come up, a self-demolition order was issued on 7th August, 2025. Since the petitioner did not carry out the self-demolition order, the municipality had proceeded to execute the demolition order by fixing a demolition program and in that context, the notice dated 27th May, 2026 was served. According to him, the petitioner was given opportunity of hearing. Unfortunately, the petitioner did not take such opportunity.

6. In response to a query from this Court, the learned advocate for the petitioner would submit that prior to aforesaid notice, no notice had been issued. In the back drop as aforesaid, this Court while exercising jurisdiction under Article 226 of the Constitution of India to afford an opportunity to the petitioner to set up a defence against the demolition order had called upon the petitioner to demonstrate whether the construction carried out by the petitioner at the premises in question is in accordance with the sanctioned building plan. The learned advocate representing the petitioner

would submit that the sanction is, however, limited to a G+2 storey.

7. Having heard the learned advocates appearing for the respective parties and on ascertaining from the petitioner that a G+2 storied building has been sanctioned, ordinarily, in my view, the municipal authorities cannot interfere with such construction unless there is any deviation therefrom. Since the municipal authorities in the instant case, have identified that an additional floor has been constructed and a self-demolition order has already been issued, I am of the view the construction beyond the sanctioned level cannot be saved. However, since there appears to be some doubt as to the service of notice, the municipal authorities for the time being should not touch the construction up to the sanctioned level. Accordingly, the municipal authorities may, however, proceed with the demolition program in respect of the additional floors. Insofar as the floors which are sanctioned for the municipal authorities to make out a case of deviation, the municipal authorities must give notice to the petitioner and hear out the petitioner afresh.
8. With the above observations and directions, the writ petition is disposed of.

(Raja Basu Chowdhury, J.)