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AKG
Ct. 15

**RVW 162 of 2025
With
CAN 1 of 2025
CAN 2 of 2025**

**Santosh Choudhary & Ors.
Vs.
Serampore Municipality & Ors.**

Mr. Asoke Kumar Banerjee, Sr. Adv.,
Mr. Arijit Dey
...for the Petitioners

Mr. Ashis Kumar Chowdhury,
Mr. Bobhru Bahan Bera,
Mr. Sudip Jana,
Mr. Rohan Paul
...for Respondent nos. 6 & 7

Mr. Goutam Lahiri
...for Serampore Municipality

Ms. Jayeeta Sinha,
Mr. Sandip Mandal
...for the State

In Re: CAN 1 of 2025

This is an application seeking condonation of delay of approximately 143 days in preferring the present application against the order dated December 13, 2024, passed by this Court.

In my view, the delay has been satisfactorily explained.

Accordingly, **CAN 1 of 2025** is allowed.

In Re: RVW 162 of 2025

This is a review application seeking review of the order dated December 13, 2024, passed by this Court in the present writ petition. The facts involved in the writ petition have been recorded in the order dated December 13, 2024, and the same are reproduced below:

“Respondents No. 6 and 7 filed WPA 13779 of 2023 before this Court, alleging that cracks had developed in the walls of their residential property, which is situated opposite the construction site undertaken by the petitioners.

The writ petition was disposed of by a Co-ordinate Bench of this Court by an order dated April 1, 2024. The operative portion of the said order is reproduced below:

“The Serampore Municipality is directed to cause a spot inspection upon prior notice to the petitioners as well as the private respondents to ascertain as to whether the cracks that have developed in the wall of the petitioners’ premises are on account of the construction being made at the behest of the private respondents.

The Municipality is directed to circulate the spot inspection report and afford an opportunity of hearing to both the parties to make submission in support of their respective stand.

The Municipality shall decide as to whether any unauthorized construction has been made by the private respondents.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not

entered into the merits of the claim made by the petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

Learned advocate appearing for the petitioners is directed to forward a copy of the representation dated March 4, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities."

In compliance with the above order, the Serampore Municipality issued successive notices to the petitioners as well as to Respondents No. 6 and 7. Both parties appeared before the Board of Councillors and submitted reports from their respective structural engineers. After hearing the parties on several occasions and considering the engineers' reports, the Board of Councillors was unable to reach a definitive conclusion regarding whether the cracks in the walls of Respondents No. 6 and 7's house were caused by the petitioners' construction. However, the Municipality did determine that unauthorised construction of 4014.75 sq. ft. had been undertaken by the petitioners.

As a result, the Municipality issued an order on October 3, 2024, referring the issue of the cracks to the Director of the Municipal Engineering Directorate. Concerning the unauthorised construction by the petitioners, a notice dated November 6, 2024, was issued directing the petitioners to demolish the unauthorised construction.

Mr. Dhiraj Kumar Trivedi, Senior Advocate for the petitioners, challenges the notice dated November 6, 2024, and the reasoned order dated October 3, 2024. He contends that the Municipality should have issued a notice under Section 218 of the West Bengal Municipal Act, 1993, before directing the petitioners to demolish the unauthorised construction. Since such a notice was not issued, the demolition order could not be sustained.

I am unable to accept this contention. As already mentioned, a Co-ordinate Bench of this Court, by order dated April 1, 2024, directed the

Municipality to address both the issue of cracks in the walls of Respondents No. 6 and 7's property and the issue of unauthorised construction. The Municipality has complied with this order by issuing notice to the petitioners, who participated in the hearings before the Board of Councillors. Therefore, there was no requirement for the Municipality to issue an additional notice under Section 218 of the West Bengal Municipal Act, 1993. The notice under Section 218 is issued to provide an opportunity for the person responsible for the unauthorised construction to be heard. The Board of Councillors passed the demolition order only after allowing the petitioners to present their case. Therefore, there is no necessity for a further notice under Section 218 of the Act of 1993.

The issues of the cracks in Respondents No. 6 and 7's property and the unauthorised construction by the petitioners are distinct and have been appropriately addressed by the Serampore Municipality separately.

However, I note that in directing the petitioners to demolish the unauthorised construction, the Municipality has not specified which part of the construction is to be demolished. Therefore, I direct the Municipality to issue a demolition sketch map along with a infringement statement indicating the unauthorised construction within seven days from the date of this order.

The petitioners are required to comply with the demolition order in accordance with the aforementioned sketch map and the infringement statement. Upon receipt of the sketch map, the petitioners shall execute the demolition within seven days. If the petitioners fail to demolish the unauthorised construction within the said period, the Municipality will be at liberty to execute the demolition order.

Accordingly, **WPA 28795 of 2024** is disposed of."

Mr. Asoke Kumar Banerjee, learned Senior Advocate appearing for the review applicant, seeks review of the order dated December 13, 2024, primarily on the ground that while passing the said order, Notification No. 889/UDMA-

15011(24)/6/2023-LS-MA SEC dated December 4, 2023, issued by the Urban Development & Municipal Affairs Department, Government of West Bengal, was not taken into consideration by this Court. By the said notification, unauthorised constructions were permitted to be regularised to the extent specified therein, subject to fulfilment of certain conditions.

During the pendency of the present review application, this Court, by an order dated September 19, 2025, directed the Municipality to appoint a duly qualified engineer to inspect the house of respondent nos. 6 and 7 in order to ascertain whether any damage had been caused to their building due to the construction undertaken by the review applicant and to assess the cost required for repair of such damage.

In compliance with the said order, the Municipality has submitted a report before this Court. The report, inter alia, assesses the estimated cost of repair at Rs. 6,93,000/-.

Respondent nos. 6 and 7 have expressed their willingness to accept the said amount. However, it has additionally been submitted that some further amount should be awarded towards mental agony and litigation expenses.

Accordingly, this Court directs the review applicant to

pay a consolidated sum of Rs.10,00,000/- towards compensation.

The review applicant shall pay the said amount in favour of respondent nos. 6 and 7 by way of bank transfer within a period of two weeks from the date of this order. Respondent nos. 6 and 7 shall furnish their bank account details by the end of the day, to which the said amount shall be transferred.

Insofar as the prayer for regularisation of unauthorised construction in terms of the notification dated December 4, 2023, is concerned, this Court is of the view that the order dated December 13, 2024, requires review to the extent that the review applicant has a right to seek regularisation of the unauthorised construction within the limits prescribed under the said notification.

In view of the aforesaid, the review application is allowed with a direction upon the Municipality to extend the benefit of the notification dated December 4, 2023, subject to payment of requisite fees by the review applicant.

The entire exercise shall be completed by the Municipality within a period of two weeks from the date the review applicant produces proof of payment made to respondent nos. 6 and 7 in terms of this order.

Accordingly, **RVW 162 of 2025** along with **CAN 2 of**

2025 stands disposed of.

Urgent certified *website* copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)