

07.04.2026
M/L No.33
Court No.12
(gc)

**FMA 1159 of 2024
CAN 1 of 2024**

**Nikhil Kumar Singha
Vs.
Suri Municipality & Ors.**

Mr. Krishnendu Bera
...for the Appellant.
Mr. Sandipan Banerjee,
Ms. Purbasha Nandy Brahma
...for the Suri Municipality.

1. Affidavit of service is taken on record.
2. The Municipality is represented by learned Advocate.
3. None appears on behalf of the respondent nos.4 and 5.
4. The respondent nos.4 and 5 have refused service. Postal articles have returned with the endorsement "refused". They are taken on record. Refusal is good service and, as such, we proceed with the hearing of the appeal.
5. The appellant is aggrieved by an order dated April 19, 2024 passed in WPA 13041 of 2023. The allegation in the writ petition was that the respondent nos.4 and 5 were constructing without any sanction. The order impugned before us also records that sanction for the plan could not be taken as the same was not received by the Municipality. The order further records that a

civil suit is pending between the parties and the issue can be raised in the suit. The learned Court has committed several errors and failed to appreciate the following:-

- a) Without any permission, construction cannot be permitted.
 - b) The fact that the Municipality had not granted sanction, is apparent from records.
 - c) The Civil Court will not decide the issue of unauthorized construction. It is within the jurisdiction of the Municipality under the West Bengal Municipal Act, 1993 to take a decision whether the construction is authorized and take follow up steps by way of demolition, if it is found that the construction is unauthorized.
6. Under such circumstances, the order impugned is set aside.
 7. The competent authority of the Suri Municipality is directed to cause an inspection of the premises/alleged construction of the respondent nos.4 and 5 upon granting opportunity to all the parties to be present during such inspection.
 8. A report of such inspection shall be prepared at the spot with minutes and sketch map, to demonstrate the

nature and extent of unauthorized construction and/or to determine whether the entire construction is without any plan or sanction.

9. Parties shall be furnished with the copy of the report.

The parties shall be allowed to make their submission before the competent authority and adduce documentary and oral evidence in support of their respective claims. Upon hearing all the parties and upon considering the records, the matter shall be reached to its logical conclusion. If the Municipality is of the opinion that the construction is unauthorized, demolition shall be effected in terms of Section 218 of the West Bengal Municipal Act, 1993.

10. Accordingly, the appeal and the application are disposed of. The order impugned is set aside.

11. There shall be no order as to costs.

12. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)