

Form No.J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 15613 of 2025

**Pulak Ghosh
versus
The State of West Bengal & ors.**

For the petitioner	:	Mr. Biswaroop Mukherjee Mr. Maidul Islam Kayal Mr. Noorul Amin SARDar Mr. Archisman Singh Mr. Mohinur Mallick
For the respondent No. 2	:	Mr. Arka tilak Bhadra
For the respondent Nos. 3-4	:	Mr. Soumyajit Bhatta
For the State	:	Mr. Susanta Pal Ms. Tanim Sengupta
Heard on	:	12.02.2026
Judgment on	:	12.02.2026

Raja Basu Chowdhury, J (Oral):

1. The present writ petition has been filed, inter alia, praying for a direction upon the respondent No. 5 to enquire with regard to the building plan which the petitioner claims to have been allegedly sanctioned on 8th August, 2022.
2. It is the petitioner's case that the petitioner is the owner in respect of holding No. 54 being premises No. 138 Thakur Nitya

Gopal Road, Post Office-Panihati, Police Station-Khardah, North 24 Parganas which was originally owned by his father Alope Ghosh. It is also the petitioner's case that the petitioner along with his mother during her lifetime on 12th December, 2012 had entered into a development agreement with the respondent No. 4 for constructing a G+3 storied building on the above premises and on 13th December, 2012, executed a power of attorney thereby authorizing the said respondent No. 4 to construct and sell residential flats/units/garages etc. to the intending purchasers. According to the petitioner, there are other co-sharers in respect of the aforesaid property who had also executed separate development agreements and power of attorney in favor of the respondent No. 4. The petitioner claims that after completion of the building, the respondent No. 4 had delivered the flat measuring 600 sq.ft. to the petitioner from the land owners' allocation. It is only after taking possession that the petitioner observed that the respondent No. 4 had erected a wall on the common space of the building at the western side of the flat unauthorisedly, which was causing obstruction to the petitioner. Accordingly, the petitioner had raised an objection. Subsequently, the petitioner had made written representation before the municipality. Since the municipality did not take action, complaining in-action on the part of the municipality, the petitioner along with his mother Mala Ghosh (since deceased)

had filed a writ petition which was registered as WP 7256(w) of 2016. By an order dated 18th July, 2016, the above writ petition was disposed of by directing the Board of Councilors to take appropriate action in terms of Section 218 of the West Bengal Municipal Act, 1993 (hereinafter referred to as the said Act).

3. In furtherance to the aforesaid, a proceeding was initiated under Section 218 of the said Act and ultimately, the same resulted in the final demolition order dated 5th August, 2022. Challenging the aforesaid order, the private respondent No. 4 had filed Municipal Appeal being No. 6 of 2022 before the learned Civil Judge (Junior Division), 2nd Court, Barasat. Since the learned Court refused ad interim injunction, an appeal was filed before the Fast Track 1st Court at Barrackpore which was registered as misc. appeal No. 27 of 2023. By an order dated 4th March, 2023, the learned appeal Court directed the parties to maintain status quo in respect of the order of demolition. Subsequently, the application for stay which was pending before the Learned Civil Judge (Junior Division), 2nd Court at Barrackpore in Municipal Appeal No. 6 of 2022 was rejected by order dated 16th March, 2023 as the matter was already sub-judice and the appeal Court had already granted stay.
4. The petitioner now contends that the sanctioned building plan dated 8th August, 2022 issued in relation to the aforesaid premises is a suspect document and that the private respondent

being the developer taking advantage of such document, had obtained stay. It is this particular sanctioned building plan in respect whereof he seeks an enquiry to be conducted, as according to him, there are interpolations on the sanctioned building plan which he has disclosed in this petition.

5. The municipality is represented. The learned advocate for the municipality would submit that the municipality had duly sanctioned a building plan for construction at premises No. 138, Thakur Nitya Gopal Road, Post Office-Panihati, Police Station-Khardah, North 24 Parganas.
6. Having heard the learned advocates for the parties and considering the materials on record and although the petitioner would try to contend that this Court should enquire into the copy of the sanctioned building plan though State machinery, I am of the view there is no scope for this Court to enquire into the plan which has been admittedly sanctioned by the municipality. If there are certain interpolations in the document which has been disclosed by the petitioner, this Court cannot on the basis thereof call the State machinery to act. In any event, the provisions of Section 217 of the said Act provide for adequate provisions for cancellation of permission on the ground of misrepresentation. This apart, the matter is sub-judice in the Municipal Appeal and the learned Court is in seisin of the matter. Further in the instant case, I find that the petitioner has already obtained possession of

the portion of the owners' allocation in respect of the building which has been constructed pursuant to the self-same sanctioned building plan. As to whether the sanctioned building plan which the petitioner seeks to rely on, is interpolated or not, in my view, is not necessary for this Court to enter into. Further since an appeal in this regard is pending, any order passed by this Court is likely to interfere with the merits of the appeal. The petitioner is not remediless, all such issues can be considered by the appeal Court at the time of hearing of the appeal.

7. Accordingly, the writ petition is dismissed without any order as to costs.

Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)

**Sayandeep
A.R. (Court)**