

Form No.J(2)

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

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 20197 of 2025

**Samarjit Majumder
Versus
The State of West Bengal & Ors.**

For the petitioner	:	Mr. Sanjib Seth Ms. Soumi Chakraborty
For Durgapur Municipal Corporation	:	Mr. Sandipan Banerjee Ms. Purbasha Nandy Brahma Ms. Priyanka Sen
For Asansol Durgapur Development Authority	:	Mr. Sharanya Chatterjee Mr. Subhajit Barman
Heard on	:	23.02.2026
Judgment on	:	23.02.2026

Raja Basu Chowdhury, J (Oral):

1. Affidavit of service filed in Court is taken on record.
2. The instant writ petition has been filed, inter alia, complaining failure on the part of the municipal authorities to take steps on the basis of the representation filed by the petitioner on 19th May, 2025.
3. In the above complaint, the petitioner has claimed that the entire structure constructed in Amarabati Defence Colony, District – Paschim Bardhaman, PIN 713214, comprising school, auditorium, transformer room of DECHSL office and other places including 75 shop rooms, club,

various houses, CCTV room and ration shop are without sanction and should be demolished.

4. Going through the aforesaid complaint, prima facie, it would transpire that the aforesaid claim made by the petitioner is vague. The petitioner has failed to identify why the aforesaid portions of Amarabati Defence Colony, Durgapur, which has come up on the basis of sanction accorded by Asansol Durgapur Development Authority (in short, ADDA) within the meaning of West Bengal Town and Country (Planning and Development) Act, 1979 (hereinafter referred to as the “said Act”) is illegal.

5. Independent of the above, I must note that the matter has a chequered history. Originally one Binoy Majumder had approached this Court alleging inaction on the part of Asansol Durgapur Development Authority and Durgapur Municipal Corporation for their failure to take steps regarding illegal construction at Amarabati Defence Colony. By order dated 20th September, 2023, a Coordinate Bench of this Court in WPA 28017 of 2022 directed the authorities to take action. This followed the demolition notice dated 21st March, 2024. The Durgapur Ex-servicemen’s Co-operative Housing Society Limited had thereafter approached this Court challenging an order of demolition passed by the Durgapur Municipal Corporation dated 18th January, 2024 which was communicated to the parties vide demolition notice dated 21st March, 2024 in WPA 9212 of 2024. The said writ petition was, however, dismissed and accordingly the Commissioner, Asansol Durgapur Police

Commissionerate and the New Town police station were directed to render adequate police protection to the men and agent of the Durgapur Municipal Corporation to implement the demolition order. Although, an appeal was preferred, the same came to be dismissed by order dated 29th April, 2024 passed in MAT 782 of 2024.

6. In the interregnum, however, a further writ petition being WPA 15851 of 2024 was filed by the Durgapur Ex-servicemen's Co-operative Housing Society Limited on the ground that pending final decision to be taken in relation to the representation of regularization of the illegal construction, the demolition order should not be implemented. The records reveal that the Coordinate Bench of this Court by judgment and order dated 21st January, 2025, had disposed of the writ petition with a direction upon the ADDA to consider the prayers for regularization of the petitioners made before the ADDA in terms of Section 53(4) of the said Act. It was further provided that the Durgapur Municipal Corporation shall not implement the demolition notice/order dated 24th August, 2022 and 18th January, 2024 pending consideration of the prayer of the petitioners before the ADDA. Records would reveal that an appeal was filed before the Hon'ble Division Bench of this Court which came to be disposed of by an order dated 14th May, 2025. The Hon'ble Division Bench of this Court was pleased to dispose of the appeal by, *inter alia*, observing as follows:-

“32. In our view, Section 53 of the Act of 1979 cannot be pressed into service for the purpose of regularization of an unauthorized construction which was erected in violation of the

provisions of the Act of 2006. Legality of the construction is governed by the Act of 2006. Legality of a construction governed under the Act of 2006 is to be assessed on the parameters of such Act of 2006. The Act of 1979 and, particularly Section 53 thereof, regulates the user of a plot of land governed by the Act of 1979. Therefore, Section 53 of the Act of 1979 cannot be pressed -10 FMA/769/2025 2025:CHC-AS:875-DB into service to contend that, a construction which is unauthorized under the Act of 2006, can be regularized under Section 53 of Act of 1979.

33. Respondent nos. 5, 6 and 7 will, therefore, proceed to implement the order dated April 29, 2024 passed in MAT 782 of 2024, if not implemented till date, forthwith.

34. As discussed above, grant of change of user within the Master Plan, will not resonate on the lack of sanctioned building plan under the Act of 2006. Therefore, the exercise that, the respondent no.1 may undertake before the respondent no.4 for change of user in terms of the Master Plan will not affect the subsisting order of demolition directed to be implemented by the Coordinate Bench.

35. There are disputes amongst the members of the respondent no. 1 as to who gets to represent the respondent no. 1. The application purported to be made by respondent no. 1 for regularization of the user of the plot of land, under the Master Plan, before the respondent no. 4, therefore, be decided on the basis of a valid representation of the respondent no. 1. We clarify that, the respondent no. 4 is at liberty to decline to consider the representation of the respondent no. 1 if it is of the view that, such representation was not made by the respondent no. 1 through duly authorized persons to do so. We also clarify that, we did not enter into FMA/769/2025-11 the dispute inter se amongst the members with regard to the management of the respondent no. 1.

36. In the event, there is a valid representation by the Respondent no. 1 for change of user, under the Act of 1979, the

Respondent no. 4 may consider the same, in accordance with law, being uninfluenced by any of the observations made herein.

37. FMA 769 of 2025 along with connected applications are disposed of without any order as to costs.”

7. Mr. Banerjee, learned advocate representing Durgapur Municipal Corporation would submit that ADDA has already rejected the application for regularization and in furtherance thereof the municipal corporation has already conducted partial demolition and the municipality is taking steps for carrying out further demolition.

8. Having heard the learned advocates appearing for the respective parties and since, at this stage, the learned advocate for the petitioner would seek for enforcement of only the demolition order passed by the municipal authorities dated 18th January, 2024 communicated on 21st March, 2024, I am of the view since, the municipal authorities have already taken steps in the matter and since it is submitted that a contempt application is pending consideration, no fruitful purpose will be served in keeping the writ petition pending, the same is accordingly disposed of by observing that the municipal authorities should act in accordance with the direction passed by the Hon'ble Division Bench of this Court and enforce the order of demolition.

9. Since no affidavit-in-opposition has been called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

10. 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.)

SB
A.R. (Court)