

17.06.2026
Court No. 12
ML 90
June 2026
Sandip

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

M.A.T. 1579 of 2025
I.A. No : CAN 1 of 2025

Md. Serajuddin Ansari & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Sobhan Majumder,
Mr. Rajdatta Chattopadhyay,
Ms. Risha Das,
Ms. Antara Dey,
Mr. Kunal Ghosh,
Mr. Somnath Guha
.....for the appellants.
Mr. Rajendra Chaturvedi
....for the Rishra Municipality.

- 1) The appellant is aggrieved by an order of the learned single Judge.
- 2) The learned single Judge directed the Municipality to act and proceed on the basis of a communication dated November 20, 2024. We find that the Executive Engineer, Rishra Municipality having detected a deviation from the sanction plan had asked the appellants to demolish the portion of the construction which was unauthorized.
- 3) It was further stated in the notice that, in the event of failure of the appellants to carry out the self-demolition, the provisions of the West Bengal Municipal Building Rules will be followed.
- 4) His Lordship was of the view that, the authority should proceed on the basis of the

said notice and in accordance with law. When the Municipality found that there was an unauthorized construction by way of deviation from the sanction plan on holding number 8/7, A. K. Azad Road, Rishra, the Municipality issued a notice. The Municipality is the authority empowered by law to ensure that constructions are made strictly in accordance with law. An opportunity was given to the appellants to self-demolish the deviated portion/unauthorized construction.

5) We find that the notice of the Municipality which was sought to be implemented, does not specify the particular portion in the building which was unauthorized and exact the nature of deviation. That is why, we are of the view that an inspection would be necessary.

6) Despite service, none appears on behalf of the writ petitioners. Affidavit-of-service is taken on record.

7) In our view, the contention of the appellants that the construction is in accordance with the sanction plan and not in deviation thereof, is a factual aspect which has to be decided by the Municipality, upon hearing the parties. There is a, prima facie, finding of the Municipality of deviation.

8) Under such circumstances, the order impugned recognizes that the Municipality must now proceed in accordance with law. This means that demolition proceeding should be initiated according to law, upon holding an inspection in presence of the parties in order to identify the deviated/unauthorized portions. Once the inspection is over and the parties are given the report of such inspection with details

of the deviation, the parties shall be at liberty to respond to such report and thereafter, the Municipality will proceed with the matter upon hearing the parties. A reasoned order shall be passed and communicated to all. If any unauthorized construction is found, steps shall be taken in accordance with law. The area/portion which is found to be unauthorized shall be clearly stated in the report, as detected. The entire exercise shall be completed within a period of six weeks. The order of the learned single Judge is modified accordingly.

9) The appeal and the connected application are disposed of.

10) Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)