

Form No.J(2)

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

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 23908 of 2025

Sova Pramanick

Versus

The State of West Bengal & Ors.

For the petitioner	:	Mr. Syed Arif Ahmed Mrs. S. Bera
For the municipality	:	Mr. Achintya Kr. Banerjee Ms. I. Banerjee
For the State	:	Mr. Sougata Mitra Mr. R. Sinha
For the respondent no.7	:	Mr. D. Nath Chatterjee
Heard on	:	18.02.2026
Judgment on	:	18th May, 2026.

Raja Basu Chowdhury, J:

1. The present writ petition has been filed, *inter alia*, seeking rejection of the sanctioned plan issued by the municipality in favour of the private respondent No. 7 concerning Holding No.51, Rabindra Sarani, Kamarpara, Post Office and Police Station Ranaghat, District Nadia, Pin – 741201.
2. According to the petitioner, the entire holding comprising of G+1 storied building situated at 51, Rabindra Sarani, Kamarpara,

Ranaghat, Nadia had been acquired by the petitioner pursuant to a registered agreement for sale dated 13th April, 2011, which identically was on the basis of a decree for specific performance passed on 3rd August, 2013, in title suit No. 131 of 2011, filed before the Court of the learned Civil Judge (Senior Division) at Ranaghat, Nadia, and the subsequent execution on 19th December, 2019 in furtherance to the order dated 28th August, 2018 passed in CO no. 3835 of 2016 with CO no. 3836 of 2016 with CO no. 3837 of 2016 (Smt. Shova Pramanick vs. Sri Somnath Pal).

3. Records would reveal that the petitioner in order to enforce the registered agreement for sale dated 13th April, 2011 had filed a suit for specific performance before the Court of the learned Civil Judge (Senior Division), Ranaghat, Nadia which was registered as title suit No. 131 of 2011. The same was decreed on 3rd August, 2013 whereby the petitioner was directed to deposit the balance consideration within a period of one month from the date of passing the decree. The decree was drawn up on 7th August, 2013. The petitioner had subsequently applied for a certified copy of the judgment and decree on 14th August, 2013 and could obtain the same only on 3rd December, 2013. Within 10 days thereafter, on 13th December, 2013, the petitioner as decree holder filed an application under the provisions of Section 151 of the Code of Civil Procedure seeking for extension of time to deposit of balance consideration amount. The learned Trial judge had dismissed such application. Questioning the

same, the petitioner had preferred a civil revisional application which was registered as C.O. 3835 of 2016. Subsequently, the petitioner had taken out yet another application before the learned trial Court seeking similar relief which was also refused, and this prompted the petitioner to file yet another civil revisional application being C.O. 3836 of 2016. Subsequently, a third attempt was made by the petitioner for extension of time to make the deposit, on this occasion by filing an application under Section 148 of the Code of Civil Procedure, which also came to be rejected and accordingly, the petitioner filed another revisional application being C.O. 3837 of 2016. All the above revisional applications came to be disposed of by a common judgment delivered by a Co-ordinate Bench of this Court wherein the Hon'ble Court was, *inter alia*, pleased to observe that the Court below had adopted a hyper technical approach in refusing the petitioner's prayer for extension of time to deposit the balance consideration amount thrice, and accordingly, while setting aside the orders impugned, permitted the petitioner as decree holder to deposit the balance consideration amount as directed by the learned Civil Judge (Senior Division) Ranaghat, Nadia vide judgment and decree dated 3rd August, 2013 passed in title suit No. 131 of 2011, within a fortnight from such date. It was further made clear that if the deposit is made, the Court below will proceed with the rest of the formalities for execution.

4. Pursuant to the aforesaid, the petitioner had deposited the amount whereupon the petitioner's vendor had executed the title deed. Subsequently, upon entering into the possession of the property, the petitioner had come to learn that an additional floor was constructed over the property in question. Initially, the petitioner was under a belief that the construction was without the sanction of the municipal authorities. Later the petitioner came to learn that the aforesaid construction was with the sanction of the municipal authorities. The petitioner had, however, previously approached this Court by filing a writ petition for demolition of unauthorized construction which however, came to be dismissed on the basis of the submissions made by the municipality that the dispute between the petitioner and the private respondent was purely civil in nature and that a building sanction plan had already been issued in favour of the private respondent much prior to passing of a decree in the suit for specific performance suit and on the premise that the petitioner's and private respondents' vendor was common.
5. I find that today, both the municipality as also the private respondent are represented in Court. The private respondent has placed before this Court a sanctioned building plan bearing No. 226 dated 30th October, 2017. The private respondent would also by placing before this Court a sale deed dated 27th February, 2012 and the schedule thereto, would submit that as per the schedule of the aforesaid sale deed, it would transpire that what was conveyed is the

portion of the roof of the second storey to the extent of 631 Sq.ft. of the three storied building comprising of open terrace along with proportionate share in the land. Prima facie, upon going through the sale deed, it transpires that the private respondent had only acquired the roof of the 2nd storey of the three storied building which is declared therein as open terrace.

6. The municipality is represented. Mr. Banerjee, learned advocate for the municipality would submit that the municipality was not a party to the suit. The municipality was not aware and was not informed with any of the proceedings pending between the petitioner's vendor and the petitioner herein and as such there is no irregularity on the part of the municipality in according sanction on the strength of the registered deed disclosed by the private respondent.
7. It is also submitted by the learned advocate representing the private respondent that since the private respondent was not a party to the suit, the private respondent cannot be made liable for the consequence of the decree passed in the suit for specific performance.
8. Having heard the learning advocates appearing for the respective parties and having considered the materials on record, I find that a suit for partition as submitted by the advocate for the private respondent has been filed seeking partition between the private respondent and the petitioner. When the previous writ petition being WPA 7739 of 2025 was filed complaining unauthorised construction and for demolition thereof, by an order dated 12th September, 2025 the Coordinate of this Court had been pleased to dismiss the petition by noting that the dispute

between the petitioner and the respondent no.6 that is the private respondent was purely civil in nature. Situation has not changed. I find that the petitioner has come forward by the present petition to seek cancellation of the plan, though such a prayer was not made in the previous writ petition and though neither the private respondent nor can the municipality ignore the decree passed by the Civil Court as both are bound by such decree, in my view, in the given facts, when previously the Coordinate Bench had refused to in effect entertain the petition while exercising discretion, it shall not be appropriate for this Court to entertain the petition.

9. Although, going by the decree and the orders passed at the intervention of this Court in revisional jurisdiction, the municipality under ordinary circumstances could not have retained the sanction plan on the file, however, noting that the petitioner is yet to execute the decree for specific performance and the application thereof is pending before the Civil Court, in my view, it shall only be appropriate for this Court at this stage, to wait for the outcome of the execution proceedings. Thus, by reserving the right of the petitioner to agitate its claim upon disposal of the execution proceedings, the writ petition stands disposed of without any order as to cost. The petitioner shall be at liberty to approach the executing Court for appropriate orders if so advised.

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.)