

ML. 46
18.03.2026
Court. No. 12
GB

FMA 1274 of 2024
With
CAN 1 of 2024

Durga Prasad Bhakat
Vs.
The State of West Bengal & Ors.

Mr. Uttiya Ray,
Mr. Atish Santra

...for the Appellant.

Mr. Subhasis Bandopadhyay

...for the Municipality.

1. None appears for the respondent Nos.5 to 7, despite service.
2. On the earlier occasion also, none appeared for those respondent.
3. Our predecessor Bench had directed the Chairman, Burdwan Municipality to file a report upon making an inspection with regard to the nature of the structure. Their Lordships were of the, prima facie, view that the structure was permanent.
4. The report indicates that the roof of the structure was made of bamboo and partly fitted with asbestos. The walls were made with brick and mud and rest portions were covered with tin. The structure was found on a “pukurpar”.
5. We have perused the report and we have considered the photographs. We find that the walls and the floor are concrete structure. The definition of the ‘building’ under Section 2(3) of the West Bengal

Municipal Act, 1993 is relevant in this regard. However, the issue with regard to the unauthorized construction has to be decided by the competent authority of the municipality under Section 218 of the said Act. As the report indicates that a part of the structure may be temporary, in that event we direct an inspection of the premises to be made in the presence of the parties. A report shall be prepared and served on the parties. If any portion of the construction is found to be unauthorized/without sanction, the same shall be demolished in accordance with law, upon following the procedure prescribed under the Statute and upon giving hearing to the interested parties. A reasoned order shall be passed. The entire exercise shall be completed within a period of six weeks from date. The order impugned is set aside.

6. Accordingly, the appeal and the connected applications are disposed of. A copy of the order shall be served upon the private parties.
7. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)