

19.01.2026.
Item No. 15.
Court No. 13
ap

**F.M.A. No. 20 of 2025
With
I.A. No. CAN 1 of 2025**

**Tapas Kumar Shit & Anr.
Versus
The State of West Bengal & Ors.**

Mr. Amit Baran Dash,
Ms. Ankana Sarkar.

...For the appellants.

Mr. Lalit Mohan Mahata, Id. AGP
Mr. Rudranil De.

...For the State.

Ms. Santi Das,
Ms. Satabdi Das.

...For the respondent no.8.

Mr. Nilanjan Adhikari,
Ms. Oindrila Sinha.

...For the respondent nos.3, 4 & 5.

1. Affidavit-of-service filed in Court today be taken on record.

2. The instant intra court appeal is directed against the order dated 9th September, 2024 passed by a learned Single Judge of this Court in W.P.A. 12101 of 2024.

3. The writ petitioners/appellants are aggrieved that the appellants have constructed a corrugated tin structure above the second floor without sanction from the Municipality.

4. It is also pointed out by Counsel for the appellants by referring to the inspection report dated 9th April, 2024, that the mandatory space required to be left on four sides of the construction of the

respondent no.8. The private respondent has purchased the property sometime in the year 2001 and had applied for a sanction plan that was granted on 30th January, 2001.

5. As already stated hereinabove, the inspection report signed by the Chairman of the concerned Municipality on 9th April, 2024 found that mandatory space to be left on all four sides of the building have not been followed by the private respondent.

6. Ms. Santi Das, Counsel appearing on behalf of the private respondent submits that the writ petition is a counterblast to an order passed in another writ petition filed by her client wherein unauthorized structures and construction by the appellants have been directed to be demolished by the learned Single Judge of this Court in W.P.A. 25260 of 2023 by an order dated 15th January, 2024 and confirmed by a Co-ordinate Bench of this Court in F.M.A. 322 of 2024 and F.M.A. 322 of 2024 in order dated 11th March, 2024.

7. There is a contempt proceeding filed before the learned Single Judge of this Court by the private respondent no.8 wherein costs of Rs.30,000/- has been imposed on the Chairman, Contai Municipality.

8. Ms. Santi Das further argues that the construction being an old and of the year 2001, the correct Rules have not been applied by the Municipality.

9. Having regard to the submissions made by the parties, this Court is of the view that any unauthorized construction made without leaving mandatory space in terms of the West Bengal Municipal Act, 1993 would render the same illegal.

10. The Chairman, Contai Municipality shall, therefore, examine whether the report dated 9th April, 2024 addresses the violation of the sanction plan dated 30th January, 2001 by the private respondent as per the correct applicable Rules.

11. If under the applicable Rules, the private respondent's construction is found to be unauthorized or in violation of the sanction plan, necessary steps shall be taken by the Chairman, Contai Municipality in terms of the West Bengal Municipal Act, 1993.

12. It is expected that the aforesaid exercise of examination of the applicable Rules is completed and necessary final orders are passed by the Board of Councilors of Contai Municipality within a period of one month from date.

13. The impugned order dated 9th September, 2024 shall stand modified accordingly.

14. With the aforesaid directions, F.M.A. 20 of 2025 shall stand disposed of.

15. In view of the disposal of the appeal itself, the connected application being CAN 1 of 2025 shall also stand disposed of.

16. There will be no order as to costs.

17. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(*Rajasekhar Mantha, J.*)

(*Ajay Kumar Gupta, J.*)