

14.5.2026

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CO 3885 of 2024

Jagannath Jana

Vs.

Smt. Sumitra Bairagi & Ors.

Mr. Ayan Banerjee,
Ms. Debjani Sengupta
Ms. Poulomi Ghosh ...for the petitioner

Mr. Arijit Dey ...for the O.P. nos. 2 & 3

Opposite party no. 1 is not represented.

The petitioner herein is aggrieved with the order dated 13th August, 2024 passed by learned Civil Judge (Junior Division), Bidhannagar in Municipal Misc. Appeal no. 8 of 2024.

Being aggrieved by the aforesaid order, learned counsel for the petitioner submits that the court below passed the order of stay upon incorrect appreciation of facts and law as there was no scope to hold that there has been any violation of the principles of natural justice while passing the impugned resolution.

Learned Trial court erred in exercise of the jurisdiction by holding that there has been violation of natural justice, although the appellant, Smt. Sumitra Bairagi had appeared before the Board of Councilors and submitted in support of her case. The Trial court also erred in exercise of the jurisdiction vested upon him by

staying the order of demolition of a three storied building, on 3' wide alley without appreciating that under the concerned building rules, a three storied building can not be constructed and therefore, the entire building is unauthorized and liable to be demolished.

The court below further erred in staying the operation of the resolution of the Board of Councilor dated 19th June, 2024 in the absence of the parties, more particularly, during absence of the petitioner, who is the complainant and at whose behest, the entire proceeding for demolition had been started.

During the course of hearing, learned counsel for the petitioner submits that he filed an application under Order 1 Rule 10 of the Code of Civil Procedure for impleading him as a party in the said appeal on 5.9.2024 and since then, the matter is pending for hearing of said Application.

Learned counsel for the petitioner on instruction further submits that a direction may be given for early disposal of the petitioner's prayer for impleading him as a party and also further direction may be passed for disposal of the Municipal Misc. Appeal no. 8 of 2024 at the earliest.

Learned counsel for the opposite party nos. 2 and 3 submits that due hearing was given before the resolution was passed by the Municipality.

Having heard learned counsel for the petitioner and the opposite party nos. 2 and 3, the instant application being C.O. 3885 of 2024 is hereby disposed of with a direction upon the court below for disposal of the petitioner's application under Order 1 Rule 10 of the Code preferably within a period of 30 days from the date of communication of this order and to make every endeavour to dispose of the appeal being Municipal Misc. Appeal no. 8 of 2024 preferably within a period of three months thereafter.

I have made it clear that I have not gone into the merits of the case and the court below shall dispose of the aforesaid application and aforesaid appeal without getting influenced by any observations made herein.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)