

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 28952 of 2025

Sanjoy Banerjee
Versus
The State of West Bengal & Ors.

Mr. Partha Sarathi Bhattacharyya, Sr. Advocate
Mr. Raju Bhattacharyya
... For the petitioner.

Mr. Siva Prasad Ghosh
Ms. Neha Roy
.... For the private respondent

Mr. Sankha Subhra Ray
... For the Kamarhati Municipality.

1. The present writ petition has been filed alleging illegal construction. When this matter was taken up for consideration on 19th December, 2025, it was submitted on behalf of the petitioner that the private respondent has been carrying out construction flouting all municipal rules and is also not adhering to the notice issued by the municipality. Accordingly, this Court had directed the municipality to carry out an inspection at Premises No. 25/C.K.N. Banerjee Road, Aridah, Kolkata – 700 057, in Plot No.808, J.L. No.4, P.S. Dakshineswar, under Ward No.13 of Kamarhati Municipality.

2. Pursuant to the aforesaid, a report was filed by the municipality dated 9th January, 2026. From such report it would transpire that the private respondent was granted a sanctioned building plan on 13th March, 2023. Upon verification of the plan and upon tallying the same

with the physical measurement conducted by the attending municipal officials it was observed that there was construction of a room in the south-east side of the premises measuring about (2.0m*1.10m*0.600m), which does not exist in the sanctioned building plan and as such the same appears to be a deviation, and an unauthorized construction. This apart, it was also noted that the existing drainage system running through one side of the common passage, has been obstructed by the private respondent by installing an iron gate. Moreover, the private respondent has constructed half-landing of stair on the common passage which is in clear deviation from sanctioned plan and accordingly the municipal authorities have already issued a notice under Section 218 of the West Bengal Municipal Act, 1993 (hereinafter referred to as the “said Act”) and a proceeding is going on. The petitioner, as prayed for, was permitted to file an exception to the report in terms of the leave granted by this Court on 14th January, 2026.

3. Pursuant to the aforesaid, the petitioner had filed an exception. In the exception, amongst other points, he has claimed that the building plan of the private respondent dated 18th May, 2000 had lapsed on 10th November, 2012. The existence of 3 ft. 4 inches common passage is shown in this plan, as well as the sanction dated 13th March, 2023. Since then, when the matter appeared on 27th January, 2026, as the learned advocate appearing for the municipality had submitted that notwithstanding issuance of the notice under Section 218

of the said Act, the private respondent continued with illegal construction and despite intimating the police authorities, the police authorities had failed to take any steps, this Court by the order dated 27th January, 2026 had directed the Officer-in-Charge of the concerned police station to take steps and immediately arrest the illegal construction and to file a detailed report.

4. Despite the above order, the concerned Officer-in-Charge did not take steps as directed and without complaining with the stop work notice insisted for a joint inspection. The report was filed by a subordinate of the respondent no.5 and not by the respondent no.5 as directed. Considering the fact that the conduct of the concerned Officer-in-Charge in not adhering to the Court's order was deplorable to say the least, the Officer-in-Charge was directed to file a report in the form of an affidavit explaining his conduct. The municipality was also granted liberty to proceed in the matter with a further direction upon the municipality to file an updated report on the returnable date. In furtherance to the aforesaid, the municipality had filed a report on 17th February, 2026. Though, diverse issues had been raised therein, it appears that subsequently, the municipal authorities were able to restrain the private respondent from carrying out further construction. The report filed by the concerned Officer-in-Charge on the returnable date would demonstrate that on 9th February, 2026, a joint inspection was conducted at the site in question with the officials of Kamarhati Municipality and Dakshineswar

Police Station. Further on 12th February, 2026, the petitioner informed over telephone that the *alleged person* had hurled filthy languages towards him and upon receipt of such information, the Sub-Inspector again visited the spot and conducted an enquiry.

5. Today, the learned advocate representing the private respondent intends to file an exception to the report filed by the municipality on 17th February, 2026. I am of the view that at this stage, there is no scope for this Court to permit the private respondent to file any exception, especially in the light of the fact that already a proceeding under Section 218 of the said Act has been initiated by the municipal authority. It is not for this Court to decide on the outcome of the proceeding, nor it is for this Court to make any observation on the outcome thereof. It is for the municipal authorities to take a decision in this regard. The private respondent is at liberty to participate in such proceeding. It is only expected that the municipal authority shall concluded the proceeding on an expeditious basis.

6. It is made clear that pending decision of the municipality, no further construction shall be carried out.

7. After the order is passed, since, the learned advocate for the private respondent would submit that the private respondent is ready and willing to cooperate and the proceeding should be disposed of within a week, I am of the view that the municipality should take expeditious steps to concluded the same within a period of four weeks from the date of communication of this order.

8. With the above observations and directions, the writ petition is disposed of.

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

(Raja Basu Chowdhury, J.)