

**In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Civil Appellate Jurisdiction
Appellate Side**

The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
And
The Hon'ble Mr. Justice Supratim Bhattacharya

MAT No. 44 of 2026
+
CAN 2 of 2026

Shelter Sales Pvt. Ltd. and another
Vs.
Siliguri Municipal Corporation and others

For the appellants : Mr. Amalesh Roy, Sr. Adv.,
Mr. Nigam Mittal
Mrs. Aayushi Agarwal,
Mr. Parthiv Chakraborty, Advs.

For the Siliguri Municipal Corporation : Mr. Bijoy Bikram Das,
Mr. Deborshi Dhar, Advs.

For the respondent nos. 6 & 7 : Mr. Soumya Majumder, Sr. Adv.
Ms. Susmita Ghosh, Adv.

Heard on : 11.06.2026

Judgment on : 11.06.2026

Sabyasachi Bhattacharyya, J.:-

1. Heard learned counsel for the parties.
2. Learned senior counsel appearing for the appellants argues that the learned Single Judge traversed beyond jurisdiction in construing the impugned uncaptioned notices

issued by the Siliguri Municipal Corporation to have been issued under Section 286 of the West Bengal Municipal Corporation Act, 2006 (in short “the 2006 Act”). It is contended that the nature of the dispute raised, as reflected in the impugned notices, pertains to a title dispute, which could not be gone into by the Siliguri Municipal Corporation.

3. Learned counsel for the Siliguri Municipal Corporation submits that although the impugned notices were issued by the Municipal Corporation, the Corporation now takes a stand that the private respondents sat tight over the matter for an inordinate period during the construction being made and came too late in the day in raising the challenge.
4. Learned senior counsel for the private respondents submits, by placing reliance on the language of Section 286 of the 2006 Act, that the complaint lodged by the private respondents and the ambit of the impugned notices pertains to mismatch in specifications of the land over which the construction is being made.
5. Learned senior counsel relies on the specific language of the said provision and argues that in the event the Commission is satisfied that sanction was given in consequence of any material misrepresentation or fraudulent statements contained in the plans, elevation section or specification or land or any material particulars submitted in respect of the building, it may cancel such sanction. Learned counsel further adds that since it is found that the land-in-question is recorded in the Records of Rights in the name of certain other persons and the sanction plan was obtained in respect of a plot different from that for which it was purported to be obtained, the matter relates to a question within the contemplation of Section 286 of the 2006 Act.

6. Upon hearing learned counsel, we find from the impugned judgment that the learned Single Judge went into the question as to whether the construction is being made by the appellants *prima facie* on property which belongs to another person and more so the person belonging to the Tribal Community and the land-in-question being tribal land. The learned Single Judge further found that the present land being tribal land, the respondent no.3 had also found *prima facie* a mismatch land in the name of the land-owner as mentioned in the sanctioned building plan and ROR and as such called the parties for hearing.
7. However, with respect, we differ from the said view due to the specific language of the two impugned notices, respectively dated December 27, 2024 and June 3, 2025.
8. In both the said notices, the sole premise on which those were issued is cited to be that the appellant obtained occupancy certificate issued in its name but as per LR Khatian submitted by the complainants/private respondents, the present ROR of the land-in-question is in the name of Tudu Oraon and Tenta Oraon. The said show-cause notices proceed to observe that “hence there is mismatch between the land-owner as mentioned in the sanctioned building plan and present ROR”.
9. The said question squarely pertains to the recording in the ROR, which comes squarely within the purview of the Land Acts, such as the West Bengal Land Reforms Act, 1955 and the West Bengal Estate Acquisition Act, 1953, and falls within the domain of the concerned authorities under the said Acts.
10. In fact, we are apprised by learned senior counsel appearing for the appellants that already proceedings are pending in that regard before the appropriate courts/authorities.

11. From a different perspective, the question also pertains to the title of the parties, since the plinth of the show-cause notices is that the names recorded in respect of the subject-land in the ROR are different from that of the appellants. Apart from the well-settled principle that entries in ROR do not determine title, the said matter is also sub judice in different civil suits before competent Civil Courts.
12. Section 286 of the 2006 Act is quoted below:

“286. Power of the Commissioner to cancel permission on the ground of material misrepresentation by the applicant.- If, at any time, sanction to erect any building has been given and the Commissioner is satisfied that such sanction was given in consequence of any material misrepresentation or fraudulent statement contained in the plans, elevation section or specifications or land or any material particulars submitted in respect of such building, it may cancel such sanction, and any work done thereunder shall be deemed to have been done without sanction.”
13. The limited conspectus of Section 286 is attracted when there is material misrepresentation or fraudulent statement “contained in the plans, elevation section or specifications or land or any material particulars submitted in respect of such building”.
14. The mere mismatch between the entries in the ROR and the occupancy certificate on the basis of which sanction plan was granted cannot be termed as a misrepresentation or fraudulent statement in the plan, elevation section or specifications or land or any material particulars.
15. If the show-cause notice is to be construed to be under Section 286, it also has to be necessarily interpreted that the said provision takes within its ambit adjudication of title and/or the adjudication in respect of the veracity of entries

in the ROR which fall within the exclusive domain of specific authorities under specified Acts.

- 16.** It is entirely beyond the jurisdiction of the Municipal Corporation, as also held previously by a learned single Judge of this Court in connection with the matter in the previous rounds of litigation, comes within the purview of a title dispute.
- 17.** In such view of the matter, the impugned notices were issued completely without jurisdiction by the Siliguri Municipal Corporation.
- 18.** Accordingly, with respect, we differ with the view of the learned single Judge on such count.
- 19.** This Court would be failing in its duty if it did not mention the concern of learned senior counsel appearing for the private respondents to the effect that the hearing has already commenced in terms of the impugned notices and the issues raised here can be canvassed before the appropriate authority.
- 20.** However, since we have held that the impugned notices were issued without jurisdiction and are vitiated on such count, anything done incidentally thereto or in pursuance thereof is automatically vitiated.
- 21.** Hence, there is no requirement to relegate the parties unnecessarily to a futile hearing before the authorities.
- 22.** In such view of the matter, no useful purpose would be served in keeping the appeal pending.
- 23.** Accordingly, MAT No. 44 of 2026 is allowed on contest, thereby setting aside the impugned judgment dated March 2, 2026 passed in WPA No. 883 of 2025

as well as the notices impugned in WPA No. 883 of 2025 and WPA No. 897 of 2025, respectively dated December 27, 2024 and June 3, 2025.

- 24.** Consequentially, CAN 2 of 2026 is disposed of in the light of the above observations.
- 25.** It is made clear that the impugned notices are being set aside only on the ground of jurisdiction and this Court has not entered into the merits of any of the allegations made in the said notices and/or by the private respondents against each other. It will be open for the parties to canvass their grievances on all counts before the appropriate authorities/courts.
- 26.** There will be no order as to costs.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Supratim Bhattacharya, J.)