

(2025) 03 CAL CK 0998

In the Calcutta High Court, Appellate Side

Case No : FMA 381 Of 2025 With IA No. CAN 1 Of 2025

Meheboob Hossain Ansari @ Mehbub Hossain Ansari

APPELLANT

Vs

State Of West Bengal & Ors

RESPONDENT

Date of Decision : 11-03-2025

Acts Referred:

Citation : (2025) 03 CAL CK 0998

Hon'ble Judges : Debangsu Basak, J;Smita Das De, J

Bench : Division Bench

Advocate : Rudranil De, Ziaul Haque, Jahangir Hossain, Soumo Charan,
Prosenjit Mukherjee, Babita Pramanik, Bani Israil

Final Decision : Disposed Of

Judgement

Debangsu Basak, J

1. Appeal is at the behest of the writ petitioner and directed against an order dated January 13, 2025 passed in WPA 17974 of 2024.
2. Appellant alleged unauthorized construction at the behest of the several private respondents in the writ petition.
3. Learned Single Judge found the writ petition not to be maintainable in view of misjoinder of cause of action since the writ petitioner made blanket allegations of unauthorized construction against all the private respondents. Learned Single Judge was not satisfied with the bona fides of the writ petition also.
4. Private respondents are represented.
5. By consent of the parties the appeal is taken up for final hearing.
6. As noted above, the writ petitioner alleges unauthorized construction at the behest of several private respondents.
7. The issue as to whether, unauthorized construction exists as alleged or not

requires a decision.

8. Defence of the private respondents is that, some of the private respondents possess sanction for the construction and the others claim that such constructions were made under the Pradhan Mantri Awas Yojana.

9. The validity, legality and sufficiency of such defence is required to be decided by the appropriate authority. Construction made under the Pradhan Mantri Awas Yojana ipso facto does not obviate the requirement to comply with the existing building law.

10. So far as the bona fides of the writ petitioner is concerned, it is alleged as against the writ petitioner that, the writ petitioner is a relative of a person whose unauthorized construction got demolished at the behest of the respondent no.10 herein.

11. The relative of the writ petitioner may or may not be guilty of unauthorized construction but that does not entitle any of the private respondents to make any construction which is unauthorized.

12. Therefore, we are unable to accept the view that the writ petitioner lacks bona fides.

13. The nature of the unauthorized constructions alleged are such that it requires consideration by the Board of Councillors of the Municipality concerned under the provisions of the West Bengal Municipal Act, 1993.

14. In such circumstances, the Board of Councillors of the concerned Municipality will decide the issue of unauthorized constructions, in accordance with law. No doubt, the Board of Councillors will afford an opportunity of hearing to the private parties. Board of Councillors is at liberty to hear such other parties and consult such documents that it deems appropriate. Board of Councillors will endeavour to conclude the proceedings within a period of six weeks from the date of communication of this order. No doubt, they will pass a reasoned order which they will communicate to the parties forthwith thereafter.

15. All issues raised with regard to the unauthorized construction are kept open.

16. FMA 381 of 2025 and IA No.: CAN 1 of 2025 are disposed of.