

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Ravi Krishan Kapur

And

The Hon'ble Justice Chaitali Chatterjee (Das)

F.M.A. 773 of 2026

CAN 1 of 2026

Rabin Maity

VS.

Sanjoy Banerjee & Ors.

For the appellants : Mr. Siva Prasad Ghosh

For the respondent no. 1: Mr. Partha Sarathi Bhattacharya
Mr. Saikat Chatterjee
Mr. Raju Bhattacharya

For the respondent/
Kamarhati Municipality : Mr. Sankha Subhra Roy

Hearing concluded on : 3 August, 2026

Judgement on : 3 August, 2026

Ravi Krishan Kapur, J.:-

1. The grievance of the appellant is directed against an order dated 11 May, 2026 (the impugned order) whereby at the invitation of all the parties including the appellant, the Trial Court had directed the respondent Municipality to take expeditious steps to conclude the hearing in respect of a complaint filed by the writ petitioner alleging illegal construction.

2. Briefly, the grievance of the private respondent/writ petitioner related to illegal construction being carried out at premises no. 25/C/1, Kedarnath Banerjee Road, Ariadaha, Kolkata – 700 057 in Plot no. 808, under Ward No. 13 of Kamarhati Municipality.
3. During the course of the hearing before the Trial Court, a Report had been filed by the Municipality. By the impugned order, the Trial Court has disposed of the writ petition by directing the Municipality to take expeditious steps in disposing of the complaint of the writ petitioners. In this context, the relevant portion of the impugned order is set out hereinbelow:

“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 conclude the same within a period of four weeks from the date of communication of this order.”

4. On behalf of the Municipality, it is submitted that the Board of the Municipality is yet to be constituted and save and except the Executive Officer who individually cannot take such a decision. In this background, the Municipality prays for some time to pass a final order in terms of the impugned order. This suggestion is accepted by all the parties.
5. In *State of Maharashtra v. Ramdas Shrinivas Nayak*, (1982) 2 SCC 463, it has been held as follows:-

“4.the principle is well-settled that statements of fact as to what transpired at the hearing, recorded in the judgment of the court, are conclusive of the facts so stated and no one can contradict such statements

by affidavit or other evidence. If a party thinks that the happenings in court have been wrongly recorded in a judgment, it is incumbent upon the party, while the matter is still fresh in the minds of the Judges, to call the attention of the very Judges who have made the record to the fact that the statement made with regard to his conduct was a statement that had been made in error...”

6. In view of the above, there are no grounds which warrant interference with the impugned order.
7. F.M.A. 773 of 2026 along with connected interlocutory application stands dismissed.
8. Interim orders, if any, stand vacated.
9. By consent of the parties, the order dated 24 July, 2026 stands corrected to reflect that Mr. Sankha Subhra Roy, Advocate had appeared on behalf of the Municipality.
10. Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Ravi Krishan Kapur, J.)

I agree.

(Chaitali Chatterjee (Das), J.)

KAUSHIK CHATTERJEE