

26.09.2025
Court No.13.
Item No. 10
sp/pk

**MAT 1571 of 2025
CAN 1 of 2025
Prabir Kumar Hazra Choudhury
Vs.
Debabrata Majumder and others**

Mr. Sanjib Dutta
... for the appellant.

Mr. Dhananjay Nayak
... for the private respondent.

Mr. Swapan Banerjee,
Mr. Mir Anuruzzaman
... for the State.

Re: CAN 1 of 2025

1. CAN 1 of 2025 has been filed seeking condonation of delay of 70 days in filing the instant appeal
2. Sufficient grounds are available to explain the delay of 70 days in filing the instant appeal. Hence, the delay is condoned.
3. Accordingly, CAN 1 of 2025 is allowed and disposed of.

Re: MAT 1571 of 2025

4. The appeal is directed against an order dated 3rd June, 2025 passed by a Single Bench of this Court.
5. By the impugned order, the Court prima facie accepted the contentions of the respondent/writ petitioner that the appellant has effected unauthorized construction over a portion of a joint property, which he has purchased from one of the co-owners.

6. Admittedly, all the co-owners of the property had obtained a sanction plan in the year 2003 for construction on the property. The plan expired sometime in the year 2006 since no construction was effected thereon.

7. Counsel for the appellant fairly conceded that his client has effected construction under an expired sanction plan albeit within a portion of the entire premises.

8. It is now well-settled that unless all the co-owners of the property apply for extension of the sanction plan or a fresh plan, the Municipality or the Panchayat concerned cannot extend or grant any fresh plan in respect of the property.

9. It is submitted by counsel for the writ petitioner/private respondent that the appellant had earlier filed WPA No. 5890 of 2025 to permit them to construct property without a sanction plan. The said writ petition was withdrawn without leave to file afresh on the self same cause of action as recorded in the order dated 16th July, 2025 passed by the Single Bench of this Court. The instant writ petition was even otherwise barred under Order 23 of the CPC.

10. The construction made by the appellant/private respondent in the writ petition is *ex facie* illegal. The writ petition is still pending consideration before the Single Bench.

11. In that view of the matter, the impugned order calls for absolutely no interference.

12. Hence, MAT 1571 of 2025 is dismissed. Consequently, connected pending application being CAN 2 of 2025 is also dismissed.

13. There will be no order as to costs.

14. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)