Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 30761of 2026

Ganguly Evera Developers LLP & Anr.
Versus
The State of West Bengal & Ors.

For the petitioners	:	Mr. Saptansu Basu, Sr. Advocate Mr. Supratim Dhar, Sr. Advocate Mrs. Madhu Priya Mr. Dhananjay Nayak
For the State	:	Mr. D. N. Ray, Ld. GP Mr. Souvik Nandy, Sr. Advocate Mr. Guddu Singh Mr. Bikramjit Mondal
For the Municipality	:	Mr. Mir Anuruzzaman
For the added respondent:		Mr. Srijib Chakraborty Mr. Dipanjan Dutt Mr. Aditya Mondal Mr. Kamran Hussain
Heard on	:	28.10.2026 & 17.11.2026
Judgment on	:	**17.11.2026**

Raja Basu Chowdhury, J (Oral):

1. The instant writ petition has been filed, inter alia, challenging the order dated 9th October, 2026, passed by the Executive Officer, Rajpur-Sonarpur Municipality.

2. The genesis of the order lies in a communication made by the private respondent to the Member of Legislative Assembly (MLA) which was later forwarded to the municipality.

3. The records would reveal that the private respondent had lodged a complaint regarding statutory, environmental and building bylaw violations by the developer of "4 sight Florence phase III" in Garia with the MLA (hereinafter, people's representative). As per the said complaint the private respondent had pointed out certain deficiencies, inter alia, including road access, widening, gift deed default, suppression of material facts, fraudulent procurement of approvals, illegal water-body conversion, classification tampering, land area mismatch, FAR irregularities, boundary declaration, setback, splay discrepancies, environmental, forest, statutory clearances by (PCB/DFO/AAI) and RERA and master plan discrepancies. The private respondent in the aforesaid complaint had also made the following prayer:-

> "8. PRAYERS & ACTION REQUIRE
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> In light of the above severe violations of municipal bylaws, land conversion laws, and urban planning norms, we earnestly request your esteemed office to:
>
> 1. Take Immediate Penal Action: Initiate strict administrative and penal action against the developer with immediate effect regarding the illegal and unauthorized building height extensions.

2. Conduct Physical & Revenue Inspection: Order a comprehensive physical and revenue inspection regarding the illegal conversion of land status, specifically concerning water bodies like Dag No. 640.

3. Scrutinize Technical Metrics: Thoroughly verify FAR calculations, boundary lines, setbacks, and access road gift deeds before considering or granting any Occupancy Certificate or Completion Certificate.

4. Issue Show-Cause Notice: Issue a formal Show-Cause Notice to the developer demanding an explanation for material misrepresentation, suppression of facts. and non-compliance with municipal bylaws and RERA regulations.

5. Direct Demolition: Order the immediate stoppage and/or demolition of all illegal, unauthorized, and non-compliant structures raised in violation of sanctioned plans and statutory provisions.

6. Pass Further Orders: Pass such other order or orders as your authority may deem fit and proper in the interest of justice, equity, and law".

4. Records would reveal that the peoples representative did not act on the basis of the aforesaid complaint for obvious reasons and did not lodge any complaint. He had only forwarded the same to the municipality. The municipality based on the aforesaid, had passed the order impugned where under it recorded that the petitioners

had obtained permission/approval of the building plan by coercion which seems to be of material fact. Accordingly, a stop work notice was issued and the petitioners were directed not to initiate work until further order. The petitioners were also directed to appear before the Assistant Engineer, Rajpur-Sonarpur municipality on any working day during office hours with all relevant documents in original for verification of the same.

5. When the writ petition was moved the petitioners had sought for leave to file supplementary affidavit. Today, at the time of hearing, the supplementary affidavit has not been filed and Mr. Basu, learned Senior Advocate has insisted for proceeding with the writ petition without the supplementary affidavit and accordingly, the writ petition is taken up for consideration. He has drawn attention of this Court to Section 220 of the West Bengal Municipal Act, 1993 (hereinafter referred to as the "said Act") and would submit that the powers conferred on the Chairman to issue a stop work notice is circumscribed under the aforesaid Section. According to him, unless, the construction is either unauthorized or unlawful such power cannot be exercised by the Chairman.

6. Mr. Charkaborty, learned advocate appears for the private respondent. According to him the petitioners having made false submission, the writ petition ought not to be entertained. He has drawn attention of this Court to paragraphs 26 and 28 of the writ petition and would submit that the writ petition was filed on the

premise that copy of the complaint was not served on the petitioners, however, in the supplementary affidavit, a copy whereof has been served on the private respondent, the petitioners have acknowledged receipt of the complaint. It is also submitted that the private respondent was interested in acquiring a flat and for reasons whereof had approached the developer, however, upon ascertaining the discrepancies as aforesaid the private respondent had lodged a complaint with the people's representative. In response to a query from the Court Mr. Chakraborty has been candid enough in submitting that apart from the complaint lodged with the people's representative no other complaint had been lodged to any other statutory authority, far less, to the municipality.

7. Learned Government Pleader appears for the State. He submits that on the basis of the complaint, the State proposes to make an enquiry in the matter. He, however, is candid enough in submitting that till this date no enquiry has been made. It is submitted that if this Court grants leave to the State, the State shall proceed with the enquiry.
8. The municipality is represented and is heard.
9. Having heard the learned advocates appearing for the respective parties and having considered the materials on record, I find that it is not in dispute that there is a sanctioned building plan issued in respect of the development project. The municipality has permitted the project land to be developed. It is not the case of the

municipality that there is any deviation in construction or in execution of the project as per the sanctioned building plan. At least nothing has been brought before this Court in that regard. The municipality has, however, independent of any individual complaint has acted on the basis of a complaint being forwarded by the people's representative though no formal complaint was lodged by the people's representative. Mr. Chakraborty has been candid enough in submitting that it is not the private respondent's case that the petitioners had obtained the building plan on the basis of coercion. I, however, find in the complaint lodged before the people's representative, the private respondent has used the term suppression of material facts and procurement of fraudulent approval, particulars of the nature of such fraudulent activities to the extent indicated therein are extracted hereinbelow:-

> "*2. Suppression of material facts and fraudulent procurement of approvals.*
>
> *Issue: Dag Nos. 602 and 643 are partially under the ownership/acquisition of third party.*
>
> *In respect of RS Dag No. 602 approximately 2.63 decimals out of a total of 35 decimals stand recorded in the name of other owners.*
>
> *In respect of RS Dag No. 643 approximately 8.26 decimals out of a total of 16 decimals stand recorded in the name of other owners.*

Violation : Despite this vital encumbrance and division of title, the developer deliberately suppressed and concealed these material facts from both the Rajpur-Sonarpur Municipality and WBRERA, fraudulently obtaining statutory approvals and permissions to which they are not lawfully entitled".

10. From the above, it is apparent no contention was raised by the private respondent as regards the petitioners obtaining plan on the basis of coercion. Going by the materials on record it would transpire that it has been alleged that the permission/approval of building plan was obtained by coercion. There is no supporting documents or complaint made by any individual or by the people's representative in that regard. Ordinarily, the term coercion means and includes committing, or threatening to commit, any act forbidden by the Indian Penal Code or the unlawful detaining, or threatening to detain, any property, to the prejudice of any person whatever, with the intention of causing any person to enter to an agreement. No particulars have been provided either in the complaint or in the order passed by the Executive Officer as regards manner in which the petitioners had coerced the municipality and obtained approval of the sanctioned building plan. Independent of the above, noting the manner in which the municipality has proceeded to issue stop work notice without any independent enquiry or representation being made by the private respondent only upon a notice being forwarded by the people's representative

leaves several questions unanswered. Though a statutory authority is obliged to accept correspondences from a people's representative the authority is bound to apply its mind as regards such correspondence before taking any decision. As noted above no particulars of how the petitioners had coerced the respondents to grant the permission/approval plan had been disclosed. The stop work notice which is based on the ground of coercion in absence of disclosure of particulars is an outcome of non-application of mind.

11. Be that as it may, in the peculiar facts, in my view the municipality ought not to have directed stop work notice without there being any prima facie basis for the same. Nothing has been disclosed by the municipality to demonstrate that the petitioners had obtained the approval by suppression. It also, as noted above, does not appear to be an unlawful construction.

12. Although, learned Government Pleader would submit that they are in the process of taking steps in the matter and would seek leave of the Court to proceed, I am of the view in the given facts when diverse allegations have been levelled it is only natural that the complainant files appropriate complaint before the statutory authority at the first instance. No such complaint has been lodged. The complaint has only been forwarded by the people's representative to the municipality. No independent complaint has been lodged based on the above complaint, by the people's representative. Since there is no complaint before the State, no

leave can be granted by this Court for the State to proceed. The State shall, however, be at liberty and is always at liberty to independently and *suo motu* enquire into the matter, however, the same cannot be at the instance of the private respondent who has only purported to write to the people's representative instead of making any formal complaint before any other authority.

13. The writ petition is accordingly allowed by setting aside the impugned stop work notice dated 9th October, 2026.

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

(Raja Basu Chowdhury, J.)

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A.R. (Court)