17.11.2026
Court No. 12
ML 92
October 2026
Sandip

FMA 839 of 2026
With
CAN 1 of 2026

Mazhar Alam
Vs.
Sudip Dutta & Ors.

Mr. Kallol Basu,
Mr. Bratin Kumar Dey,
Mr. Joydeep Das

...for the Appellant.

Ms. Purbasha Nandy Brahma,
Ms. Priyanka Sen

...for the private respondent.

1. The appeal has been filed assailing an interim order dated May 19, 2026 passed in W.P.A. 26880 of 2025. The learned single Judge directed status quo to be maintained in respect of the construction which was admittedly contrary to the plan, but which had been regularised by the Corporation.
2. The writ petitioner had approached the writ Court with various objections with regard to the construction. It was alleged that the appellant had illegally obtained a plan for reconstruction of a dilapidated structure and had already constructed a G+4 building. Further construction was going on.
3. The allegation was that the required side open spaces had not been maintained, which had affected the free use

of light and air by the writ petitioner. The writ petitioner claims to be an adjacent neighbour.

4. His Lordship passed several orders and we are informed that the order prior to the order impugned dated August 5, 2026, is also under challenge in another appeal. Under such circumstances, we do not wish to make any observation on the merits of the order dated August 5, 2026 and we restrict our consideration to the merits of the order which has been impugned before us.

5. It appears that during the proceeding, reports had been filed by the Kolkakata Municipal Corporation. Last of such report is dated August 18, 2026. At this stage, we are not inclined to interfere with the order of His Lordship, inasmuch as, His Lordship has passed such interim order upon consideration of the inspection report filed by the Executive Engineer.

6. The report indicates that reconstruction was going on and there was no gap between 29 Phears Land and 29/5A, Phears Lane upto the second floor level. Above the second floor level, one adjacent wall of, 29/5A, Phears Lane had collapsed. Thereafter, at the time of reconstruction from the third floor level, a gap/open space of about 2'-3" (69 cm) had been maintained upto the top of the fourth floor. Photographs were annexed. On perusing such report, His Lordship was, prima facie, satisfied that status quo should be maintained and the construction and/or reconstruction should not proceed. His Lordship was also of the, prima facie, opinion that the regularisation of the construction by the Special

Officer, Building had been effected in respect of the major deviation, inasmuch as, an additional floor which was constructed without any sanction had been regularised.

7. Under such circumstances, at this stage, we do not accept the contention of Mr. Basu that the interim order of status quo was passedwithout any reason. We request the learned single Judge to dispose of the writ petition expeditiously, preferably within a period of two months from the date of communication of this order. The reports filed by the Kolkata Municipal Corporation shall be handed over to the learned Advocate-on-Record for the appellant, upon due notice being issued by the learned advocate for the KMC, who is not present before the appeal Court. Exceptions to the report shall be filed within a week from the receipt thereof.
8. We are not expressing any opinion with regard to the merits of the submissions made by either party. The issue of the alternative remedy which was available to the writ petitioner will also be decided by His Lordship.
9. Accordingly, the appeal and the connected application are disposed of.
10. Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Sarkar, J.)

(Partha Sarathi Chatterjee, J.)