

20.04.2026
Item No.11
Court No.12
(cp)

FMA 387 of 2025
CAN 1 of 2024
CAN 2 of 2025
CAN 3 of 2025

Sukumar Santra & Ors.
Vs.
Muroti Mohan Santra & Ors.

Mr. Somnath Roy Chowdhury
Ms. Arpita Chowdhury

.....for the appellants.

Ms. Nibedita Chakraborty
Ms. Chandreyee Chakraborty

.....for the private respondent.

Mr. Sandipan Banerjee
Mr. Santanu Chatterjee
Mr. Ankit Sureka

.....for the HMC.

1. The report of the Howrah Municipal Corporation is taken on record. It appears from the report that the building, according to the corporation, is 50 years old. Whereas the corporation has issued a 'stop work notice'. Unless the corporation was, prima facie, satisfied that an unauthorized construction was going on, the question of issuing a stop of work notice did not arise. Thus, the corporation is presumed to have acted as per law.
2. The report on the contrary provides that the building is 50 years old. The stand of the corporation has shifted. The foundational basis for ascertainment of the age of the building is not available from the report.

3. Under such circumstances, we are of the view that the inspection of the building should be made by neutral parties insofar as it relates to ascertaining the age of the construction. The construction allegedly has two floors and a temporary structure on the terrace which is a temple.
4. We request the Head of the Department, Civil Engineering, IEST, Shibpur, to constitute a three member committee to cause an inspection to ascertain the age of the construction on each of the floors, columns, pillars etc. in order to find out the following facts:-
 - a) Whether any construction or partial construction has been made recently or after 1980.
 - b) Whether the entire construction has been made 50 years ago, i.e., the approximate age of the construction should be ascertained.
5. The inspection shall be held in the presence of the Howrah Municipal Corporation and the parties, and the cost of the same will be borne by the writ petitioner.
6. The such report be filed before us within June 10, 2026.
7. This order shall be communicated to the Head of the Department, Civil Engineering, IEST, Shibpur, by the office of the learned Registrar General by special messenger.

8. A report will be filed by the said committee, in a sealed cover in the office of the learned Registrar General along with the invoice indicating the cost of such inspection, within 9th of June, 2026.
9. The interim order already passed shall continue till further orders.
10. The parties are directed to exchange their affidavits in the meantime. Affidavit-in-opposition has been filed in court. Exceptions to the report of HMC has also been filed in court. The appellants are at liberty to file an affidavit-in-reply as also an affidavit of rejoinder to the exception.
11. Let the matter appear on June 10, 2026 at 2 pm.
12. All parties to act on the server copy of the order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)