

247. 17.07.2026
Court No.8
(Tanmoy)

MAT/1132/2026
IA NO: CAN/1/2026, CAN/2/2026

MD. SHADAB ALAM AND ORS.
VS
NAIMA SIDDIQUE AND ANR.

Mr. Mainak Bose, Sr. Adv.
Mr. Gautam Das
Mr. Altamas Kabir

...for the appellants.

Mr. Subhajit Chowdhury
Mr. Sujan Das

...for the respondent no.1/
writ petitioner.

Mr. Alak Kumar Ghosh
Mr. Gopal Chandra Das

...for KMC.

Dictated by Arijit Banerjee, J.

1. Under challenge in this appeal filed under Section 19(1)(a) of the Contempt of Courts Act, 1971 (hereinafter referred to as the '1971 Act'), is an order dated June 18, 2026, passed by a learned Judge of this Court in CPAN/1827/2024, which was filed for alleged violation of an order dated January 10, 2024, passed in WPA/26626/2023.

2. The brief facts of the case are that the writ petitioner complained of illegal construction of two additional floors at the concerned premises by the person responsible. Alleging that the complaint lodged by the writ petitioner before the Corporation was not receiving due attention, the writ petitioner approached the learned Single

Judge in the writ jurisdiction. By an order dated January 10, 2024, the learned Single Judge directed the Executive Engineer of the concerned Borough *“to take prompt necessary steps to deal with the unauthorized construction in accordance with law at the earliest, but positively within a period of twelve weeks from the date of communication of this order.”*

3. Alleging violation of the aforesaid order, the writ petitioner filed the contempt application from which this appeal arises. The learned Single Judge passed the order sought to be impugned herein, which reads as follows:-

- 1. Despite detection of two unauthorized floors over the sanctioned G+3 storied structure at 29/1A, Miajan Ostagar Lane, Ward-65, Borough-VII, the same has not been demolished till date. Report of the Executive Engineer (Civil/Building/Borough-VII), KMC mentions that the building is fully occupied for which the same cannot be demolished.*
- 2. The Deputy Commission of Police, South East Division is directed to provide adequate assistance to the Officer-in-Charge, Karaya Police Station for removing the occupants of the unauthorizedly constructed structure in aid of demolition of the same.*
- 3. Hearing of the contempt application stands adjourned till 6th August, 2026.*
- 4. The unauthorized construction shall be demolished and an affidavit of compliance shall be placed before this Court on the returnable date.*
- 5. An affidavit of compliance shall be made ready and circulated prior to the adjourned date.*
- 6. It is made clear that the police shall be responsible for vacating the occupants of the*

portions constructed unauthorizably in aid of demolition by using reasonable force.

7. All parties shall act on the basis of a server copy of this order duly downloaded from the official website of this Court.”

4. Being aggrieved, the representatives of six families, who reside in the concerned building, have come up by way of this appeal. They were not parties to the writ petition or the contempt application in which the impugned order was passed.

5. Mr. Ghosh, learned senior counsel representing Kolkata Municipal Corporation (KMC), challenges the maintainability of this appeal filed under Section 19(1)(a) of the 1971 Act. He says that no punishment was imposed on the appellants or anybody. Hence, an appeal under Section 19 of the 1971 Act would not lie. A mandamus appeal may lie against the order in question, under clause 15 of the Letters Patent.

6. Mr. Bose, learned senior counsel representing the appellants, takes us through the decision of a Division Bench of this Court in the case of ***Ashoke Kumar Rai v. Ashoke Arora & Anr.*** reported at **96 CWN 278**, in support of his contention that the appeal is maintainable. He says that it is not only an order imposing punishment that can be carried in appeal under

Section 19(1) of the 1971 Act, any other order passed by the Court in exercise of jurisdiction to punish for contempt may also be challenged by way of an appeal under Section 19(1) of the 1971 Act.

7. We have heard learned counsel for the parties. Hearing does not conclude.

8. List the matter once again on July 23, 2026, marked “2:00 p.m.”

9. Mr. Bose, learned senior counsel appearing for the appellants, prays for an *interim* order to restrain the Corporation Authorities from demolishing the building in question.

10. The appellants’ Advocate-on-Record will be at liberty to inform the concerned Authorities in KMC that the present appeal is in the process of being heard and the next date has been fixed next week. We are sure that the Corporation Authorities shall be prudent in their action keeping in mind pendency of the present appeal.

(Arijit Banerjee, J.)

(Supratim Bhattacharya, J.)