

Item No.8
09.09.2026
Court. No. 12
Sandip

MAT 1446 of 2026
With
CAN 1 of 2026

Sambhu Pandit
VS
The Haldia Municipality & Ors.

*Mr. Sukumar Ghosh,
Ms. Moumita Ghosh*

...for the Appellant.

*Mr. S.M. Hassan,
Ms. Anupama Yasmin*

...for the Municipality.

*Mr. Salil Kumar Maiti,
Mr. Tanmoy Mukherjee,
Ms. Dolan Samanta*

...for the Respondent No.6.

1. The order impugned was passed in CPAN 1068 of 2024. The appellant is not a party to the said proceeding. Hence, the appeal cannot be entertained in the absence of any application for leave to appeal.
2. However, upon considering the order impugned, we do not find that any portion of Her Lordship's order has affected the construction of the appellant. The directions of Her Lordship in the contempt are against the District Magistrate.
3. Under such circumstances, the appeal and the connected application are dismissed.
4. The decision in *Santipur Municipality Vs. Smt. Lakshmi Dalal & Anr.* cannot be relied upon, as the same is not a good law. 'Court' under Section 218 (3) of the West Bengal Municipal Act, 1993 is the Civil Court of the first instance. The reference to Section 9 of the Arbitration and Conciliation Act, 1996 and Section 2(e) of the said Act in *Santipur Municipality (supra)* is misplaced. Section 2(e) talks about the Principal Civil Court, which means the Court of the District Judge or any Court which has the jurisdiction to discharge functions of the District Judge.

5. In this case, the law provides that appeals from an order of demolition passed by the Board of Councillors shall lie with the Court having jurisdiction. Court having jurisdiction and the Principal Civil Court are not identical.
6. We refer with approval, to the decision of a learned single Judge in the case of *Amartya Mukherjee & Ors. Vs. Board of Councillors, South Dum Dum Municipality*, reported in (2015) 2 Cal LJ 601. Paragraphs 28 to 31 are quoted below:-

“28. *The Law makers have consciously did not mention the grade of “District Judge” having jurisdiction under Section 218(3) of the West Bengal Municipal Act, 1993 instead the Civil Court at the first instance having jurisdiction.*

29. *It must also be born in mind that to be a court, the person constituting it must have been entrusted with judicial functions and jurisdiction means the extent of the authority of a court to hear and determine a cause, to adjudicate and exercise any judicial power in relation to a subject matter, ergo the Board of Councillors cannot be equated with that of a civil court so as to warrant an appeal to lie before the District Judge against an order of demolition passed by the Board of Councillors. Thus, it is evident that the provisions of Sections 19, 20 and 21 of Chapter III of Bengal, Agra and Assam Civil Courts Act, 1887 have no manner of application in as much as the same confer the pecuniary jurisdiction of the Civil Courts.*

30. *Taking the cue from the above observation, this court is of the considered view that the District Judge is not the persona designate under Section 218(3) of the West Bengal Municipal Act, 1993, and as such no one can claim that the appeals directly lie to the District Judge. It cannot be said that since the provision of Section 218(3) of the said Act provides for an appeal so it should lie before the District Judge.*

31. *I am of the considered view that since there is no specific empowerment given to the District Judge to hear the appeal under Section 218(3) of the West Bengal Municipal Act, 1993, the District Judge ordinarily cannot be construed to be a Court having jurisdiction. Legislative intent is that the litigants at large may avail the forum of appeal before the lowest competent Court having jurisdiction being the Court of the Civil Judge (Junior Division). Had the intention of the legislature been to give appellate jurisdiction to a Court of District Judge under Section 218(3) of the Act, the framer of the statute must have inserted the word Principal Civil Court to mean the court of the District Judge in a district.”*

7. Thus, if the appellant has filed the appeal in the wrong forum, he will be at liberty to take steps in accordance with law.
8. Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Sarkar, J.)

(Arjun Ray Mukherjee, J.)