

**HIGH COURT OF TRIPURA
AGARTALA**

W.A. No.52 of 2025

Shri Samir Ranjan Barman, S/O. Late Sudhir Ranjan Barman, a resident of 38, Akhaura Road, P.O.-Agartala, P.S.-West Agartala, District-West Tripura, PIN-799001.

..... Appellant(s).

V E R S U S

1. The Agartala Municipal Corporation, Body Corporate created under Tripura Municipal Act, 1994 having its Head Office at City Centre Complex, Paradise Chowmuhani, P.O.-Agartala, P.S.-West Agartala, District-West Tripura, PIN-799001, represented by the Commissioner, Agartala Municipal Corporation.

2. The Municipal Commissioner, Agartala Municipal Corporation, City Centre Complex, Paradise Chowmuhani, P.O.-Agartala, P.S.-West Agartala, District-West Tripura, PIN-799001.

3. The Assistant Municipal Commissioner, Central Zone, City Centre Complex, Paradise Chowmuhani, P.O.-Agartala, P.S.-West Agartala, District-West Tripura, PIN-799001.

4. Smti. Bhabani Chakraborty @ Bhattacharjee, W/O. Late Dipankar Chakraborty, 38, Akhaura Road, P.O.-Agartala, P.S.-West Agartala, District-West Tripura, PIN-799001.

.....Respondent(s).

For Appellant(s) : Mr. Suman Bhattacharjee, Advocate,
Mr. Sujoy Sarkar, Advocate.

For Respondent(s) : Mr. Purusuttam Roy Barman, Sr. Advocate,
Mr. Arijit Bhaumik, Advocate,
Mr. Samarjit Bhattacharjee, Advocate,
Mr. Kawsik Nath, Advocate.

**HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE BISWAJIT PALIT**

Date of hearing : **12.02.2026.**

Date of judgment : **10.03.2026.**

Whether fit for reporting : **YES.**

JUDGMENT & ORDER

(M.S. Ramachandra Rao, C.J.)

Heard Mr. Suman Bhattacharjee, counsel for the appellant, Mr. Arijit Bhaumik, counsel for the respondents No.1 to 3 and Mr. Purusuttam

Roy Barman, learned senior counsel assisted by Mr. Samarjit Bhattacharjee, counsel for the private respondent No.4.

2. This Writ Appeal is preferred against the judgment dt.13.02.2025 of the learned Single Judge in WP(C) No.67 of 2025.

3. The appellant is a resident of House No.38, Akhaura Road, Agartala, West Tripura.

4. Adjacent to his residence, on the western side, the homestead of respondent No.4 was situated.

5. According to the appellant, the respondent No.4 illegally and unauthorisedly constructed a three storied building without obtaining any permission in an unscientific manner and without any approval of the Agartala Municipal Corporation (respondent No.1).

6. He raised objection thereto through letter dt.09.01.2015 addressed to the Executive Officer, Central Zone of respondent No.1, who was subsequently re-designated as Assistant Commissioner, but no action was taken thereon.

7. Therefore, he sent a second letter on 06.05.2015 to respondent No.3 complaining of the deliberate inaction on the part of the Assistant Commissioner.

8. According to him, the respondent No.3, instead of taking any action, told the Private Secretary of the appellant on 22.01.2014 to settle the matter with respondent No.4 amicably and also that respondent No.1 was trying to bring suitable changes in the Tripura Municipal Act,1994 (for short 'the Act') and Rules to regularize such type of illegal construction like the one made by the respondent No.4.

9. It appears that thereafter respondent No.3 issued to respondent No.4 a notice dt.11.05.2015 asking her to stop the construction work on the building under Section 135 of the Act and also to produce valid permission, if any, pointing out that the appellant, who was the eastern side neighbour of the respondent No.4, had given a complaint regarding the illegal construction being carried out by her. The notice also mentioned that an inquiry conducted revealed that the respondent No.4 constructed second floor, extended ground floor and first floor of the building without permission. The respondent No.4 was directed to appear before the respondent No.3 with all valid documents on 16.05.2015. Copy of the same was also endorsed to the appellant.

10. The appellant then wrote a letter on 14.05.2015 to the respondent No.3 pointing out that apart from the construction, there was also a septic tank erected illegally and the notice dt.11.05.2015 issued by the respondent No.3 did not mention all the objections of the appellant.

11. However, the respondent No.4 did not turn up before the respondent No.3, but filed an application seeking 45 days time on the ground that certain documents were misplaced.

12. Time was then extended up to 26.05.2015 by respondent no.3 as a last chance as per an order sheet dt.16.05.2015.

13. But the respondent No.4, according to the appellant, continued to make illegal construction and so the appellant addressed another letter to respondent No.3 on 03.06.2015. Appellant also requested the respondent No.3 in that letter to inspect the site, the disputed land, foundation depth of the building and also the septic tank etc.

The order dt.13.8.2015 of respondent No.3 under section 133 and 135 of the Act:

14. Thereafter, an order dt.13.08.2015 was issued by the respondent No.3 stating that respondent No.4 failed to show any approved plan for the second floor of the building and that some deviations were done in the ground floor and the first floor of the building in violation of the Tripura Building Rules, 2004. The respondent No.3, therefore, passed the order under Sections 133 and 135 of the Act directing the respondent No.4 to demolish the entire construction of the second floor SP building as it was constructed without approved plan, and to further demolish the extended portion of the ground floor and first floor building beyond the approved plan, and to fix up necessary soak pit and other pipe in the septic tank to stop the nuisance within 30 days.

15. The respondent No.4 did not comply with the order of demolition as directed in the order dt.13.08.2015 of respondent No.3.

16. The Appellant contends that he kept on writing letters to respondent No.3 to take action, but instead of taking any action, the respondent No.3 addressed a letter on 16.10.2015 to the Sub-Divisional Magistrate, Sadar, Agartala for demarcation of the boundary between the lands of the appellant and the respondent No.4, which according to the appellant was wholly unnecessary. Appellant alleges that this was done by the respondent No.3 to allow the respondent No.4 more time to enjoy and to complete the unfinished work of her building to the risk and prejudice of the appellant.

17. Appellant then gave a letter on 13.07.2016 to respondent No.3 and thereupon he received a copy of a letter from the Assistant Engineer, Planning Division, Agartala Municipal Corporation dt.14.07.2016 addressed

to respondent No.4 to the effect that a joint inspection team was constituted by the Corporation for necessary inspection of the foundation of the existing building of the said respondent on 20.07.2016 at 12.30 p.m. The said letter also mentioned the names of five technical persons. The respondent No.4 was asked to be present with the original building plan and allied documents to make arrangements for the inspection. But even thereafter, nothing happened and so the appellant got issued a legal notice on 08.02.2017 upon respondent No.2 with a copy marked to respondent No.3, but even then they did not take any action.

WP(C) No.558 of 2017 and the order therein passed on 30.7.2018:

18. Appellant then filed WP(C) No.558 of 2017 to direct the respondents No.1 to 3 to demolish the illegal and unauthorized building of the respondent No.4 along with the septic tank forthwith and for other reliefs.

The Appeal of respondent no.4 and order dt.25.5.2018 therein:

19. In the meantime, the respondent No.4 filed an appeal under Section 133(3) of the Act before the Appellate Authority, i.e. the Principal Secretary, Urban Development Department, Government of Tripura challenging the order dt.13.08.2015 passed by the respondent No.3.

20. The Appellate Tribunal on 25.05.2018 set aside the order dt.13.08.2015 with the observation that there was a complaint and a counter complaint and so, a proper technical inspection needs be got conducted and a fresh order be issued in the matter after proper opportunity.

The order dt.30.7.2018 in W.P.(C).No.558 of 2017:

21. In view of the said order of the Appellate Authority passed on 25.05.2018, the Writ Petition being WP(C) No.558 of 2017 was disposed of on 30.07.2018 stating that the Writ Petition had become infructuous, but the

appellant/petitioner can challenge the order dt.25.05.2018, if he so desires. But the Appellant did not question the same.

22. In spite of the order passed by the Appellate Authority on 25.05.2018 containing directions for a technical inspection, no action was taken by off, though a representation dt.27.11.2019 was given by the appellant to the respondent No.3.

23. Appellant then approached the respondent No.2 on 12.10.2020 through a representation complaining of the inaction of the respondent No.3 to implement the order of the Appellate Authority for technical inspection.

24. The respondent No.3 then issued a notice to the appellant and the respondent No.4 on 13.11.2020 asking them to appear on 24.11.2020.

25. On that date, the counsel for the appellant appeared before respondent No.3, but neither respondent No.4 nor her representative appeared.

26. The respondent No.3 then passed an order dt.24.11.2020 directing that a technical inspection team be formed to inspect the entire building of the appellant and the respondent No.4 and named the members of the technical team as well.

27. On 11.12.2020, he also issued a memo to a similar effect and directed the inspection report to be submitted within 30 (thirty) days.

28. But no inspection of the building of respondent No.4 was taken by the technical team till 16.03.2022 and so, the appellant again made representations on 02.06.2022, 07.02.2023 and 18.12.2023.

WP(C) No.67 of 2025:

29. He then filed a Writ Petition being WP(C) No.67 of 2025 seeking the following reliefs:-

"i. Issue Rule NISI upon the respondents to show cause why a writ of mandamus or in the nature thereof shall not be issued directing the Respondent Nos. 1 to 3 to complete the proceedings by way of inspection as per Annexure- 20 within a definite time frame;

ii. As to why the foundation of the building shall not be ascertained to find as to whether the building of the respondent No.4 so constructed on the foundation was permissible, safe and in accordance with the permission given by the respondent No.1 and if not, pass appropriate order or direction to the respondent nos. 1 to 3 to demolish the illegal and unauthorized part of the building of the said respondent as per the provisions of Tripura Municipal Act, 1994 and Rules ibid;

iii. Issue Writ of Mandamus or in the nature thereof commending upon the Respondent Nos. 1 to 3 to demolish the illegal and unauthorized of the respondent No.4 septic tank forthwith;

iv. Issue Writ in the light of the prayers made above and make the Rule absolute;

v. Any other order or direction as this Hon'ble Court considers appropriate may kindly be passed;

vi. Cost of the petition may be allowed to the petitioner."

30. Before the learned single Judge, the counsel for the Agartala Municipal Corporation contended that the matter is pending before the official respondents and appellant cannot seek a Writ of mandamus; and that if advised, the appellant should approach the civil court for seeking appropriate relief if any easementary right is affected.

The judgment of the learned Single Judge dt.13.2.2025 in W.P (C0 No.67 of 2025:

31. The learned Single Judge, however, dismissed the Writ Petition at the stage of admission of the Writ Petition. He held that the appellant has an effective alternative remedy before the Civil Court, which can as well

appreciate the evidence and decide whether there was any authorized or unauthorized construction and so, no direction can be issued to the respondents to proceed with the inspection team which had already been constituted. It was also held that the petitioner did not have any locus as his constitutional rights were not infringed and so he cannot maintain the Writ. It was observed that the filing of the Writ Petition was an arm twisting method adopted by the appellant against his neighbour though there was no infringement of his legal right under the Constitution. Appellant/ petitioner was also blamed for laches and it was observed that it was a private dispute and Writ jurisdiction cannot be invoked.

The Writ Appeal:

32. Assailing the same, this Appeal was filed along with an application seeking condonation of delay of 48 days in filing the said Appeal.

33. Notice in the application was issued on 23.09.2025 to the respondent No.4.

34. Thereafter, the respondent No.4 engaged a counsel and after hearing both sides, the delay in filing the Writ Appeal was condoned.

35. The matter was heard on 11.02.2026. On that date, this Court directed the Corporation to inform as to whether technical inspection had been directed to be done in the order dt. 25.5.2018 and reiterated in the orders dt. 24.11.2020 and 11.12.2020 had been done or not between 2018 and 11.02.2026 of the construction allegedly made by the private respondent and also the construction made by the petitioner and a direction was given to produce the technical inspection committee's report, if done and the matter was adjourned to 12.02.2026. On that day, counsel reported that no such inspection had been done pursuant to the order of the Appellate Authority.

36. Counsel for the appellant contended that the judgment of the learned Single Judge is erroneous and that the learned single Judge should have allowed the Writ Petition and directed the respondents No. 1 to 3 to carry out the technical inspection and that he ought to have held that the inaction of the said respondents is arbitrary, unreasonable and violative of Art.14 and 300-A of the Constitution of India.

37. Counsel for the respondents supported the judgment of the learned Single Judge. They did not dispute that there was inaction on part of the respondent nos.1 to 3 in doing the technical inspection.

38. Admittedly, there is a dispute between the appellant and the respondent No.4 as to the legality of the construction made by the respondent No.4 adjacent to the land of the appellant and the appellant had availed the statutory remedy under Section 130 by approaching the respondent No.3 and had secured an order on 13.08.2015 that the illegal construction made by the respondent No.4 be demolished. The said order is relatable to sub-section (1) of Section 133 of the Act.

39. Under sub-section (3) of Section 133, an appeal was provided against such an order to the Municipal Appellate Tribunal constituted under the Act, and the Appellate Authority was the Principal Secretary, Urban Development Department, Government of Tripura.

40. This appeal was decided on 25.05.2018 setting aside the order dt.13.08.2015 of the respondent No.3 by directing a proper technical inspection as there was a complaint and a counter complaint and to pass a fresh order in the matter. Thus, there was a remand of the matter to the respondent No.3 to get the technical inspection made.

41. This order has attained finality and the respondent No.4 had not challenged it in any forum.

42. All that the appellant wants is implementation of the direction contained in the said order dt.25.5.2018. It is not denied that after the said order was passed, the petitioner/appellant had made multiple representations on 27.11.2019, 12.10.2020 and also a legal notice on 18.12.2023; and the respondent No.3 had even issued notice herein on 13.11.2020 and passed an order on 24.11.2020 constituting the members of the technical team and again reiterated the same on 11.12.2020 and 16.03.2022.

43. No valid reason is offered by the counsel for the respondents No.1 to 3 as to why the said technical inspection has not been done till date though 8(eight) years have elapsed since the passing of the said order in spite of the appellant repeatedly requesting for enforcement of the same.

44. It appears that the respondents, who are statutory authorities, either colluded with respondent no.4 or on account of sheer negligence and did not obey the direction of the Appellate Authority under the Act to do what was necessary to address the grievance of the appellant.

45. In several judgments of the Supreme Court such as *Consumer Action Group v. State of Tamil Nadu*¹, *M.I.Builders v. Radhey Shyam Sahu*², *Shanti Sports Club v. Union of India*³ and *Friends Colony Development Committee v. State of Orissa*⁴, the lack of accountability of Municipal authorities in preventing illegal constructions has been highlighted and it has been held that officials who have connived with the persons making illegal constructions cannot be spared.

¹ (2000) 7 SCC 425 para 37

² (1999) 6 SCC 464

³ (2009) 15 SCC 705

⁴ (2004) 8 SCC 733 paras 20-26

46. Therefore, the learned Single Judge, in our opinion, erred in observing that the construction made by the unofficial respondent did not affect the rights of the appellant because no technical inspection was done when the matter had come before him to come to such a conclusion. Infact the respondent no.4 had made similar complaint against the appellant too before the appellate authority. That was why the technical inspection was felt necessary by the appellate authority.

47. Also even when the construction was going on, complaints were made by the appellant to the respondent No.3 and the respondent no.3 had held in his order dt.13.8.2015 had held that inspite of several opportunities, the respondent no.4 had not chosen to produce any approved plan for the 2nd floor of the building which was constructed. Even before the appellate authority, it had been pointed out that there were serious deviations by respondent no.4 from the approved plan.

48. When the statute itself has given the remedy in Sections 130 and 133 to the appellant and he had availed the said remedy, it was not open to the learned Single Judge to say that the appellant had an efficacious remedy before the Civil Court.

49. Even if certain evidence is required to be appreciated, the technical knowledge about appreciation of the material, which both parties would place, was certainly available with the technical inspection team constituted by the respondent No.3 and it is not as if the officers of the technical team were in anyway disadvantaged in appreciating the same.

50. The learned Single Judge, therefore, erred in stating that there cannot be a direction to respondents No.1 to 3 to proceed with the inspection

as directed in the order dt.25.05.2018 of the Appellate Authority under Section 133(3) of the Act.

51. The learned Single Judge is also not right in stating that the appellant had no locus and that his constitutional rights are not infringed and that he cannot maintain the Writ. The concept of *locus standi* in exercise of Writ Jurisdiction is very liberal and as a neighbor of respondent no.4, he certainly has *locus standi*. Also his complaint was entertained and a statutory order was passed in his favour under sub-section (1) of Section 133 of the Act, which no doubt came to be set aside by the Appellate Authority under sub-section (3) of Section 133 of the Act with a direction that a technical inspection be done to ascertain after giving opportunity to both sides.

52. The observation of the learned Single Judge that the Writ Petition is also barred by laches cannot also be sustained because in this case there are no laches on the part of the appellant in seeking to take action against the alleged illegal construction of respondent No.4 as already set out in the earlier part of this judgment by us.

53. Even if the dispute between the appellant and respondent no.4 is a civil dispute, since under the Act such disputes are permitted to be resolved by invoking Sections 133-135 of the Act, and the remedy under the statute has been availed by the appellant, and the appellant is further seeking to enforce the order of the Appellate Authority under the Act by approaching this Court, it cannot be said as held by the learned single Judge that the appellant is trying to convert a purely civil dispute under the writ jurisdiction and that for a private dispute, this Court is being misused.

54. The official respondents are duty bound to comply with the order dt.25.05.2018 of the Appellate Authority under Section 133(3) of the Act and

it is permissible for this Court to issue a Writ of mandamus to them to implement it.

55. Therefore, the Writ Appeal is allowed; the judgment dt.13.02.2025 of the learned Single Judge in WP(C) No.67 of 2025 is set aside; the said Writ Petition is allowed and the respondents No.1 to 3 are forthwith directed to implement the order dt.25.05.2018 of the Municipal Appellate Tribunal and get conducted technical inspection after issuing notice to both parties; and then taken further action in accordance of law to redress the grievance of the appellant.

56. This exercise of inspection and then passing of a fresh order by the respondent No.3 shall be completed within one month from today without fail.

57. The respondent No.1 shall also pay costs of Rs.25,000/- (rupees twenty five thousand) to the appellant within 4(four) weeks from the date of receipt of copy of this order.

58. In view of the inaction on the part of the respondents No.1 to 3 in proceeding with the technical inspection as directed by the Appellate Authority constituted under sub-section (3) of Section 133 of the Act, the said Appellate Authority, i.e. Principal Secretary, Urban Development Department, Government of Tripura is directed to cause inquiry into the conduct of the persons holding the office of respondent No.3 from 25.05.2018 till date, identify the person/s responsible for such inaction and initiate disciplinary action against the said officer/s for such inaction if there is evidence of either collusion with respondent no.4 or sheer negligence on their part.

59. Communicate this order to the Principal Secretary, Urban Development Department, Government of Tripura.

60. The Writ Appeal is disposed of in view of above terms.
Pending application(s), if any, also stands disposed of.

(BISWAJIT PALIT, J)

(M.S. RAMACHANDRA RAO, CJ)

HIGH COURT OF TRIPURA



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