

WPA 12412 of 2026

Ranjan Saha & ors.
Versus
The KMC & Ors.

Mr. Md. Jawwad
Mr. Adnan Ahammad
Mr. Md. Nauroz Rahber
Mr. Sahin Parveen
Ms. Jenifar Jinnu
Mr. Md. Rustam

... For the petitioner

Mr. Billwadal Bhattacharyya, Ld. AAG
Mr. Srijib Chakraborty
Ms. Ina Bhattacharya

..... for the KMC

1. The present writ petition has been filed, *inter alia*, praying for a direction upon the municipal authority to recognize the petitioners as interested and affected persons in a proceedings initiated under Section 400(1) of the KMC Act, 1980 (hereinafter referred to as the "said Act") concerning premises No. 19A, Syed Amir Ali Avenue, Kolkata 700017.
2. The learned advocate for the petitioners has drawn attention of this Court to the notice issued under Section 400(1) of the said Act dated 23rd May, 2026 and would submit that the petitioners should be given opportunity to participate in the proceedings. He would further submit that the petitioners have already made an appropriate application before the Special Officer (Building) seeking leave to participate in such proceedings.

The petitioners claim to be persons who are in occupation of the property in question.

3. The learned Additional Advocate General represents the KMC. He has also placed before this Court the interim order passed by the Special Officer (Building) dated 29th May, 2026 whereunder the person responsible has been directed to produce copies of several documents which are morefully identified in such order.
4. Having heard the learned advocates appearing for the respective parties, I find that for the petitioners to participate in a proceeding under Section 400(1) of the said Act, the petitioner must first establish before this Court that they are the person responsible for the unauthorized construction. In this context, it would be relevant to note that the power of the Municipal Commissioner to order demolition and stoppage of buildings and works in certain cases have been provided for under Section 400 of the said Act. Section 400(1) of the said Act and the first proviso thereto, makes it abundantly clear that no order for demolition shall be passed without hearing the person at whose instance the erection or work has commenced or is being carried out. The above expression “the person at whose instance” has been defined in the second Explanation to section 400(1). In fact, in such explanation it has been

categorically provided that in respect of the said Chapter XXII “the persons at whose instance” shall mean the owner, occupier or any other person who causes erection of any building or execution of the work to be done, including alternation or addition if any or does it by himself. I find that it is not the case of the petitioners that they had carried out any erection or construction work as was involved in any such act.

5. Accordingly, in my view the petitioners cannot be considered to be a person responsible. Having regard to the above and noting that the Division Bench of this Court in the case of ***Bijay Biswakarma v. Rajkumari Devi Singh & Ors., (2024:CHC-AS:1541-DB)*** has already clarified that the person entitled to a notice under Section 400(1) is limited to the person responsible and not to any other person, I am of the view, there is no scope for this Court to enlarge the meaning of the aforesaid Section and to give benefit thereof to the petitioners.
6. The writ petition is thus dismissed.

(Raja Basu Chowdhury, J.)