

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 755 of 2024

**Joginder Shaw
-versus
Kolkata Municipal Corporation & Ors.**

**Mr. Alak Kumar Ghosh
Mr. Arijit Dey
...For the Petitioners.**

**Mr. Sayan Sinha
Mr. Soham Kumar
...For the private respondent.**

**Ms. Sima Chakraborty
Ms. Poushali Banerjee
...For the KMC.**

In answer to the query raised by the Court on 29th April, 2024, the learned advocate representing the private respondents categorically states that the private respondents are not willing to handover possession in the newly constructed structure in favour of the petitioner as the petitioner did not vacate the tenanted portion that he is occupying.

A title suit in between the parties being T.S. No. 169 of 2010 is pending consideration before the learned Civil Court.

On perusal of the report filed by the engineer of the Corporation filed on 24th February, 2024, it appears that unauthorised construction and change of user has been detected at the subject premises. The persons responsible for making construction have converted a

portion of the car parking area and common area in the residential room in the ground floor. The department has proceeded with under Section 400 of the KMC Act, 1980.

As regards tenancy and all other connected issues including the issue of rehabilitation of the petitioner in the newly constructed structure, it will be open for the petitioner to pursue the same before the competent forum.

As regards the unauthorised construction and change of user, the Executive Engineer (Civil/Building/Br-VII) is directed to take proper steps to deal with the same, in accordance with law, at the earliest but positively within a period of twelve weeks from the date of communication of this order. Remedial measures, if any, shall be taken immediately thereafter.

Let a fresh spot inspection, upon prior notice to all the necessary parties, be conducted to ascertain the exact nature and extent of unauthorized construction and the change of user of the subject premise. The spot inspection report shall be circulated to all the necessary parties.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)