

25.11.2025
Ct. 3
Item No.
AD 09
sayandeep

WPA 311 of 2024

**Smt. Anita Shah
Versus
The Commissioner Kolkata Municipal Corporation
& Ors.**

Mr. Tapas Coomar dey
Ms. Shreya Chatterjee

... For the petitioner

Mr. Gopal Chandra Das
Mr. Atish Kumar Biswas

...For the KMC

Mr. K.J. Yusuf, ld. AGP
Mr. Kazi Sajjad Alam

..... for the State

Mr. Pratip Mukherjee
Mr. Sudip Basu
Mr. P. Biswas

.... For the respondent No. 5

1. The report filed by the municipal authorities in Court today and the copy of the plaint in title suit No. 1287 of 2017 are taken on record.
2. Pursuant to the order dated 6th November, 2025, this Court taking note of the complaint made by the petitioner had directed to the municipal authorities to carry out an inspection and decide on the petitioner's complaint upon giving opportunity of hearing to the parties and if any illegal construction is detected, to take appropriate steps. This Court had also directed the municipal authorities to file a report before this Court on the returnable date.

3. Today learned advocate for the municipality has placed before this Court a report. In the aforesaid report, it has been claimed that a joint inspection of the property had been conducted. During inspection, it was noticed that the building in question is partly three storied which is old, dilapidated and fully occupied. According to the said report, the room of size 2.40 m. X 1.80m. of low height was constructed within the stair case, which is now under dispute. According to the report, the said room is about 7 years old. The report further record that department has already initiated a proceeding procedure and some more time is required to conduct the hearing procedure.
4. Learned advocate for the respondent No. 5 is present in Court and has apprised this Court that a eviction suit has been instituted by the petitioner against the private respondent before the Court of 5th Civil Judge(Junior Division) at Alipore, which has been registered as title suit No. 1287/2017. The private respondent is contesting the same. The learned advocate has further by drawing attention of this Court to the copy of the plaint, has submitted that there is no whisper of any illegal construction in the plaint. The aforesaid contention on the part of the petitioner an afterthought and is an attempt

to create pressure on the private respondent to vacate the tenanted portion.

5. Having heard the learned advocates appearing for the respective parties, I find that eviction suit is pending consideration before the learned 5th Civil Judge (Junior Division), Alipore between the petitioner and the private respondent. It may also be noted that no case of illegal construction and violation of the provisions of Section 108 m.o.p. of the Transfer of Property Act, 1882 has been made. Notwithstanding the above, the complaint of illegal construction has been made. This raises serious doubts as to whether any illegal construction has been carried out by the private respondent especially when the municipality is also of the opinion that the construction is old, though the exact date thereof is yet to be ascertained. From the photographs of the building disclosed before this Court along with the report, it would transpire that the building is old and dilapidated. However, since the municipal authorities are deciding on the same, this Court is of the view that it shall not be prudent to give any opinion and it shall be open to the municipal authorities to decide the cause in accordance with law.
6. With the above observations and directions, the writ petition is disposed of.

7. Since affidavits are not called for, the allegations made in the petition are deemed not to be admitted by the respondents.

(Raja Basu Chowdhury, J.)