

Dd 91 21.01.2025

MAT/96/2025
With
IA NO: CAN/1/2025, CAN/2/2025, CAN/3/2025

RATAN KUMAR BOSE AND ORS.
VS
KOLKATA MUNICIPAL CORPORATION AND ORS.

Mr. Naba Kumar Das,
Mr. Arindam Banerjee, Advocates
... .. For the Appellants

Mr. Achintya Kr. Banerjee,
Mr. Dipankar Ghosh, Advocates
... .. For the KMC

1. CAN 1 of 2025 is an application for condonation of delay.
2. Appeal is at the behest of a person who was not a party to the writ petition.
3. For the ends of justice, the delay in filing the appeal is condoned.
4. CAN 1 of 2025 is **allowed**.
5. Appeal is directed against order dated October 8, 2024 passed in WPA 17299 of 2024.
6. By the impugned order, learned single Judge noted that there exist materials to direct the Kolkata Municipal Corporation to invoke provisions of Section 400 of the Kolkata Municipal Corporation Act, 1980 against the private respondent.
7. Learned advocate appearing for the appellants submits that the appellants were not made a party to the writ petition in which the impugned order was passed. He submits that the promoter may or may not be guilty of unauthorized construction.

Appellants are not guilty of any unauthorized construction.

8. We granted leave to appeal from the impugned order to the appellants.
9. We requested Mr. Achintya Kr. Banerjee, advocate to appear on behalf of the Kolkata Municipal Corporation, since we find that he appeared for the Kolkata Municipal Corporation before the learned single Judge. Pursuant to our request, he represents Kolkata Municipal Corporation in this appeal.
10. Kolkata Municipal Corporation will regularize the appointment of Mr. Achintya Kr. Banerjee, advocate in this matter.
11. We find from the records that there was an inspection undertaken by the Corporation authorities with regard to unauthorized construction. Corporation authorities issued a notice under Section 401 of the Act of 1980. Thereafter, the writ petition was filed.
12. By the impugned order, learned single Judge directed the Corporation to initiate proceedings under Section 400 of the Act of 1980 as against the private respondent in the writ petition and the proceedings to be concluded within the last day of January, 2025.
13. The impugned order was passed on October 8, 2024. Leave to appeal was obtained from this Court on January 20, 2025. In such view CAN 2 of 2025 is disposed of.
14. Obviously, the appellants are set up at the behest of the private respondent in the writ petition. Appellants are occupants of the building concerned. Appellants are feigning ignorance of unauthorized

construction of the building concerned as also the inspection undertaken by the Corporation authorities. Such stand of the appellants cannot be accepted.

15. Time to complete the exercise directed by the learned single Judge expires in January, 2025. As noted above, the order is dated October 8, 2024. There was no appeal pending till January 20, 2025. Therefore, Corporation authorities will complete the exercise as directed by the learned single Judge and within the time specified by the learned single Judge without fail.
16. Appearing parties before us are requested to ensure that this order is communicated to the learned advocate appearing for the writ petitioner forthwith.
17. MAT/96/2025 and CAN 3 of 2025 are **dismissed** without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)