

Form No.J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 3133 of 2024

**Mohammad Wasim
Versus
The Kolkata Municipal Corporation & Ors.**

For the petitioner	:	Mr. Chandra Sekhar Banerjee Mr. Shamit Dutta
For the KMC	:	Mr. Gopal Chandra Das Ms. Suranjana De Sarkar
Heard on	:	08.12.2025
Judgment on	:	08.12.2025

Raja Basu Chowdhury, J (Oral):

1. The affidavit of service filed in Court today is taken on record.
2. The instant writ petition has been filed *inter alia* praying for a direction upon the municipal authorities not to demolish the portion of the petitioner's property situated at 200, Linton Street, Kolkata – 700014. According to the petitioner, he has purchased one office space measuring 1020 sq. ft., and 135 Sq. ft. for covered garage space in the Eastern Block of the entire ground floor of the

building named as Ashirbad at premises No. 200, Linton Street, Kolkata 700014 under ward No. 60 within Kolkata Municipal Corporation vide a deed of conveyance dated 21st April, 2022. According to the petitioner, the property has already been mutated in the name of the petitioner. Since, the property was old the petitioner had been undertaking repair. Unfortunately, the municipal authorities on the basis of a complaint regarding unauthorized change of use of the premises in question had issued a notice to the petitioner on 5th January, 2024, after having issued a notice of stop work under Section 401 of the Kolkata Municipal Corporation Act 1980. According to the petitioner, the nature of repair carried out by the petitioner does not change the nature and character of the premises and the future repairs undertaken, had been intimated to the municipal authorities vide letter dated 28th July, 2023.

3. The municipal authorities are represented. The report placed before this Court duly countersigned amongst others i.e. Executive Engineer (Civil) Building Department, Br. VI, the Kolkata Municipal Corporation to demonstrate that although, the petitioner was called upon to produce all documents in support of his claim, however, the petitioner has failed to disclose any document. The learned advocate representing the municipality by referring to Rule 3(ii) of the Kolkata Municipal Corporation Building Rules 2009

(hereinafter referred to the said Rules) submitted that though, in respect of minor repair no permission is necessary, however, intimation in this regard must be forwarded to the municipal authorities. The intimation given by the petitioner did not elaborately indicate the nature of repair. In such circumstances, the aforesaid notices had been issued.

4. Having heard the learned advocates representing the respective parties, I note that the aforesaid notices under Section 401 of the said Act has been issued primarily on the basis of a preventive measure as the municipality has not been able to identify any sanction plan of the existing G-4 storied building. However, without going into such details at this stage, I am of the view that since the municipal authorities have called upon the petitioner to disclose the nature of repair the petitioner seeks to undertake, in my view it would be prudent to direct the petitioner to disclose in detail the nature of the repair, the petitioner has undertaken and the extent thereof. Such response must be filed by the petitioner within a period of two weeks from date. Once, such response is filed, the municipal authorities shall re-consider the entire issue. In order to take a decision the municipal authorities shall not call upon the petitioner to disclose the sanctioned building plan in respect of the aforesaid premises since the petitioner is only a subsequent purchaser and may not have the plan in its custody. The

municipality shall also take note of the fact that the building has already been constructed when the petitioner had purchased the same.

5. Accordingly, the writ petition is disposed.
6. Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Raja Basu Chowdhury, J.)

chanchal
A.R. (Court)