

25.03.2025
Sl. No. 128
Ct No. 3
SG

WPA 4271 of 2025

**Rajinder Singh Raipur & Anr.
Vs
Kolkata Municipal Corporation & Ors.**

Mr. Probal Mukherjee,
Mr. Suhrid Sur.
...for the petitioners

Mr. Srijan Nayak,
Ms. Poushali Banerjee.
...for the KMC

Mr. Soumendra Nath Mookherjee, Sr. Adv.
Mr. D. Nadda,
Mr. N. Beria,
Mrs. U. Jain.
...for respondent no. 6

Mr. Abhrotosh Majumdar, Sr. Adv.,
Mr. S. Banerjee,
Mr. K. Roy.
...for respondent nos. 7, 8,
37 & 38

1. At the very inception Mr. Mukherjee fairly submits that respondent nos. 10, 12, 18, 28, 29 and 43 shall be deleted from the array of parties. Accordingly, he prays for leave to make necessary corrections in the cause title. Leave is granted.

2. In the present writ petition the petitioners are challenging the inaction on the part of the respondent-municipal corporation in not cancelling the building permit being no. 2019100143 dated 17.12.2019 granted in favour of respondent no. 6 for constructing the multi-storied building including commercial complexes at

premises no. 11, Deshpran Shasmal Road, P.S. Charu Market, Kolkata – 700033. According to the learned Counsel for the petitioners the respondent no. 6 has availed the benefits under Rule 142 (3) of the Kolkata Municipal Corporation Building Rules, 2009 without taking the consent of its tenant.

3. It is the case of the petitioners that the petitioners were inducted as tenant in respect of a shop room situated at premises no. 11, Deshpran Shasmal Road, P.S. Charu Market, Kolkata – 700033, for a monthly rental charge of Rs. 2750/-, by virtue of a tenancy agreement dated 26.03.2004. The petitioners at their own costs and expenses had established a showroom of electronic appliances and is running its business therefrom under the name and style of 'Raipur Electronics'. The landlords of the petitioners along with several other owners have jointly executed a registered development agreement dated 07.07.2013 with respondent no. 6 for the purpose of developing the said premises by constructing thereupon multi-storied building including commercial complex. It is the contention of the learned Counsel for the petitioners that the said registered development agreement mentions about the existence of several tenants in the said building. The said agreement further stipulates that after completion of the multi-storied building including

commercial complex, the existing tenants will be rehabilitated therein as per Clause 8.7 of the said development agreement. As per Clause 12.3 the owner shall obtain 'no objection' from the tenants/occupiers for construction of the building before submitting the plan to the Kolkata Municipal Corporation, which is a mandatory requirement in terms of rule 142 (3) of the Kolkata Municipal Corporation Building Rules, 2009. The petitioners further contended that they had not entered into any agreement with landlord or the developer for securing their right in the property as a tenant. The respondent no. 6 obtained the sanctioned building permit dated 17.12.2019 for raising B+G+22 residential building and single storied mercantile building at the premises in question. It is the contention of the learned Counsel for the petitioners that respondent no. 6 obtained the said permission in violation of Section 142 (3) of the Kolkata Municipal Corporation Building Rules, 2009.

4. Learned Counsel for the petitioners submits that they had preferred a suit for declaration and injunction against the landlords being Title Suit No. 378 of 2023 before the Court of the Learned Additional Civil Judge, Junior Division, 3rd Court at Alipore. The petitioners had failed to obtain any interim order in their favour. Thereafter, they preferred a miscellaneous appeal being Misc. Appeal No. 92 of 2023 before the Learned District

Judge, Alipore and vide order dated 01.04.2023 the learned District Judge was pleased to pass an interim order of injunction thereby restraining the landlord and the developer from evicting the petitioners from the premises in question till 02.05.2023.

5. Learned Counsel for the private respondent has placed on record a copy of the order dated 16.12.2024 and submits that the aforementioned appeal was dismissed as abated. Consequently, the interim order will not continue to operate in favour of the petitioners.

6. Learned Counsel for the respondent-municipality submits that the petitioners through their advocate have submitted a representation dated 25.01.2024 ventilating their grievances and the same is pending with the respondent authorities. The respondent authorities are ready and willing to consider the said representation of the petitioners in a time bound manner preferably within a period of eight weeks from the date of communication of this order after granting an opportunity of personal hearing to the petitioners as well as the interested parties.

7. Both learned counsel for the petitioners and the private respondents express no objection to the aforesaid course of action.

8. In view thereof the present writ petition is disposed of with the direction to the respondent-corporation to

consider the representation of the petitioner dated 25.01.2024 within a period of eight weeks from the passing of this order by way of speaking order after affording an opportunity of hearing to the petitioners and other interested parties.

9. Learned Counsel for the municipalities submits that the lawyers for the parties shall be intimated and which shall be deemed as proper service upon the respondents.

10. With the above direction, the present writ petition is disposed of.

11. There shall be no order as to costs.

12. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Gaurang Kanth, J.)