

26.03.2025
Sl. No. 127
Ct No. 3
SG

WPA 4476 of 2025

**Anup Das
Vs
The Kolkata Municipal Corporation & Ors.**

Mr. Sumitava Chakraborty,
Mr. Tirthankar Mukherjee,
Ms. Madhurima Sarkar,
Ms. Bratati Pramanick,
Ms. Urmi Biswas.
...for the petitioner

Ms. Rupsha Chakraborty,
Ms. Amrita Tewari.
...for the State respondent

Mr. Achintya Kr. Banerjee,
Mr. Mihir Kundu,
..for KMC

1. Affidavit-of-service filed in the Court today is taken on record.
2. Report filed by the State is taken on record.
3. The petitioner has preferred the present writ petition being aggrieved by the inaction on the part of the respondent-municipality in not stopping the unauthorized construction at premises no. 4M, Kalitara Bose Lane, Beliaghata, Kolkata-700010.
4. It is the case of the petitioner that his father was the owner of the said premises in question. During his lifetime he allowed respondent no. 8 to reside in the said premises but never transferred the said property by executing any registered documents. His father died intestate and by virtue of inheritance the petitioner and

his brother became the owners of the said property. However, the respondent no. 8, without the knowledge and consent of the petitioner and his brother, has demolished the existing structure and has constructed G+III storied illegal residential building on the above-mentioned premises with the help of the local promoter namely Bhola Nath Jana being the respondent no. 9 without having proper building sanction plan from the municipal authorities. Despite repeated complaints, the respondent- municipality allegedly abdicated its statutory duty to take appropriate action.

5. Learned Counsel for the respondent authority states that respondent no. 3, The Executive Engineer (Civil), Building Department, Kolkata Municipal Corporation, Borough III is ready and willing to decide petitioner's representation dated 21.01.2025 within a period of six weeks from the date of communication of this order after affording an opportunity of hearing to the petitioner as well as the private respondent No.8 and any other interested parties.

6. It is surprising to note that a report filed by the police authorities wherein the local police had conducted an inspection to find out if the present property is constructed recently or has been in existence. A finding to this effect has also been given by the local police authority that the present building

has been in existence for the last 10 years and no illegal or unauthorized construction has been carried out in the present building.

7. This Court finds it perplexing that the police authorities have assumed the role of assessing the age of a building- an exercise that falls squarely within the domain of the municipal corporation and its engineering and planning department. It is only when a work stop notice is issued by the corporation and a copy of the same is marked to the concerned local police station, it is expected of the local police station that they shall maintain a status quo regarding the construction after receiving the said work stop notice.

8. This Court is surprised to receive a report wherein the work of the municipal authority is being carried out by the local police station and a report to this effect is filed before this Court.

9. Given the incongruity of the report filed by the police authorities and the abdication of responsibility by the municipal corporation, this Court deems it appropriate to direct that a copy of this order be transmitted to the commissioner, Kolkata Municipal Corporation, for sensitization of the law enforcement agencies to strictly adhere to the provisions of the law while dealing with unauthorized construction activities. The Municipal Corporation shall act in accordance

with its statutory obligations, without reliance on extraneous reports from the police authorities in matters falling within its exclusive jurisdiction.

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

11. Since no affidavits have been filed by the respondents, the allegations made in the writ petition shall not be deemed to have been admitted.

12. There shall be no order as to costs.

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

(Gaurang Kanth, J.)