

11.07.2025
Sl. No.4
akd

W. P. A. 9644 of 2025

[Azizur Rahaman -Vs- The Kolkata Municipal Corporation & Ors.]

Mr. Debdutta Basu
... .. for the petitioner

Mr. Srijan Nayak
Mr. Atis Kumar Biswas
... .. for the KMC

Mr. Srinjay Sengupta
Mr. Saurav Roy
Mr. Ankush Ghosh
... .. for respondent nos.5 & 6

1. Affidavit-of-service filed in court today is taken on record.
2. The petitioner has preferred the present writ petition, being aggrieved by the inaction on the part of the respondent-Kolkata Municipal Corporation in not taking any steps for removing the alleged illegal and unauthorized construction taking place at premises No. 2/2, Harish Chatterjee Street, P.S. Kalighat, Kolkata, Borough – IX, Ward No. 073 under the Kolkata Municipal Corporation, at the instance of the private respondent nos.5 and 6.
3. It is the case of the petitioner that he is the owner of the aforesaid plot. He had entered into a Memorandum of Understanding (MoU) with the private respondent nos.5 and 6 in the year 2021. In terms of Clause 11 of the said Memorandum of Understanding (MoU), the respondent nos. 5 and 6 were permitted to make a tubular structure along with iron grill fencing and corrugated MS sheet proof measuring about 930 sq. ft. approximately or equivalent to 2 cottahs over the said portion of land of the property in question for the purpose of parking their

car. The petitioner submits that in contravention of the said Memorandum of Understanding (MoU), the private respondent nos.5 and 6 have started unauthorized construction.

4. This Court is conscious of the fact that a civil dispute between the parties cannot be raised or adjudicated in a writ proceeding. This Court is inclined to confine its consideration only to the aspect of the alleged unauthorized construction, which is being carried out by the private respondent nos.5 and 6.

5. It is submitted by the learned Advocate for the petitioner that the construction which is being undertaken at the site in question is without any valid sanctioned building plan. Despite the petitioner having submitted a representation dated 02.04.2025, the municipal authorities have failed to take any action over the issue and thereby allowing the illegality to continue.

6. Learned Advocate for the private respondent nos.5 and 6 submits that his clients are not carrying out any unauthorized construction, rather if at all any such unauthorized construction is found to exist at the site, the same shall be demolished.

7. Learned Advocate for the respondent-Kolkata Municipal Corporation submits that the authorities are ready and willing to decide the representation of the petitioner dated 02.04.2025.

8. In view of the submission made by the learned Advocate for the respondent-Kolkata Municipal Corporation, petitioner submits that his client will be satisfied if the respondent-Corporation decides his representation dated 02.04.2025 in a time bound manner.

9. Accordingly, this Court directs the Executive Engineer (Building), Kolkata Municipal Corporation (respondent no. 4) to

decide the representation of the petitioner dated 02.04.2025 and pass a reasoned order strictly in accordance with law within a period of eight weeks from the date of communication of this order after affording an opportunity of personal hearing to the petitioner as well as the private respondent nos. 5 and 6, or any other stakeholder.

10. With the aforesaid directions, 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.)