

22.07.2025
Court No.13
Item No.1
AP

MAT 703 of 2025
With
CAN 1 of 2025
With
CAN 2 of 2025

Ajoy Adhikary
Vs.
The Kolkata Municipal Corporation and Ors.

Mr. R. Kuli
Mr. Suresh Kumar Sahoo

.... For the Appellant.

Mr. Alok Kumar Ghosh, Senior Advocate
Mr. S. Panda

..For the KMC.

Re.: CAN 1 of 2025

1. The application being CAN 1 of 2025 has been filed seeking condonation of delay.
2. Sufficient grounds have been made out in the instant application explaining such delay. Hence, the delay is condoned.
3. Accordingly, CAN 1 of 2025 is allowed.

Re.: MAT 703 of 2025
With
CAN 2 of 2025

4. The appeal is directed against an order dated 13th August, 2024 by which the writ petition filed by the appellant/landlord has been dismissed.
5. Despite service of notice, the private respondent/promoter is not represented before this Court. Affidavit of service filed in Court today is taken on record.

6. It appears that sanction plan for construction to be effected in the building after a development agreement between the appellant and the private respondent, was obtained by the private respondent/promoter. In view of certain deviations and violations of the sanction plan, the appellant complained to the Kolkata Municipal Corporation (hereinafter referred to “the KMC”) and stop work notice under Section 400(1) of the Kolkata Municipal Corporation Act, 1980 has been issued. The KMC has subsequently ordered demolition of the unauthorized construction effected by the private respondent.

7. Admittedly, there is an appeal filed by the private respondent before the Municipal Building Tribunal being No.100 of 2023 dated 30th June, 2023.

8. This Court notes with surprise as to why the appeal before the Municipal Building Tribunal is kept pending for more than two years.

9. Be that as it may, it further appears that the Municipal Magistrate has imposed fine on the appellant as well as the private respondent/promoter for violating the sanction plan.

10. Mr. Ghosh, learned Senior Counsel for the KMC submits that despite stop work notice, construction is going on unabated.

11. In the aforesaid circumstances, this Court is of the view that the appellant should be added as party respondent to the proceedings before the Municipal Building Tribunal.

12. The Municipal Building Tribunal shall take up the appeal immediately upon receipt of a copy of this order and dispose of the same within a period of one month from the date of receipt of a copy of this order mandatorily and positively.

13. Since despite imposition of fine by the Municipal Magistrate construction is going on, as submitted by Mr. Ghosh, learned senior counsel for the KMC, the Kasba Police shall take immediate steps for arrest and detention of the private respondent. The Officer-in-Charge, Kasba Police Station shall also ensure that there is absolutely no construction in the said premises. The direction on the Municipal Building Tribunal to dispose of the appeal within a period of one month from the date of communication of a copy of this order shall be treated as mandatory and peremptory. Upon completion of one month from the date of receipt of a copy of this order, the appeal should either be disposed of or shall be treated as having abated.

14. The KMC shall thereafter take all steps for demolition of the unauthorized construction and collect

any expenses thereof from the private respondent/
promoter.

15. Kasba Police shall render all and every assistance to the KMC and shall ensure that there is no construction on the said premises.

16. With the aforesaid observation, MAT 703 of 2025 is disposed of. Consequently, the application being CAN 2 of 2025 is also disposed.

17. There shall be no order as to costs.

18. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)