

p16.09.2025
Sl. No. 30
Ct No. 3
SG

WPA 11469 of 2025

**Md. Rafique
Vs
The Kolkata Municipal Corporation & Ors.**

Mr. P. Mukherjee,
Mr. I. Bhattacharjee.

...for the petitioners

Mr. Debjit Mukherjee
Ms. Priyanka Jana.

...for KMC

1. Affidavit-of-service is taken on record.
2. The petitioner in the present writ petition is challenging the inaction on the part of the respondent in not deciding petitioner's representation dated 06.05.2025, whereby he prayed for retention of two unauthorized floors which he has constructed without any valid sanctioned plan on premises no. 25B, Ibrahim Road, Kolkata.
3. Perusal of the record shows that earlier writ petition being WPA 27680 of 2023 was filed before this Court and vide order dated 23.04.2024, the learned Single Judge directed for the demolition of the unauthorized construction qua the said building. The petitioner preferred an appeal against the said order being MAT 821 of 2024. In the said appeal a prayer has been made for keeping the demolition in abeyance till

the disposal of the application filed by the petitioner for regularization of the offending structure.

4. It is the stand of the respondent that there is no provision in the KMC Act for regularization of an unauthorized structure. The only regularization permissible is for minor deviations. In view of the same the Hon'ble Division Bench vide order dated 30.04.2024 dismissed the said appeal with costs of Rs.10,000/-.

The operative portion of the order reads as under:-

“We find absolutely no infirmity in the order of the learned Single Judge. Although it was also sought to be argued by learned Advocate for the appellants that no opportunity of hearing has been given to the appellants prior to issuance of the demolition order, we find no merit in such submission. Section 400(8) of the KMC Act, which has been pressed into service, does not contemplate grant of opportunity of hearing to the person responsible for the illegal construction. Reckless builders, who raise constructions without obtaining requisite prior permission from the Competent Authority, deserve no sympathy or leniency. Such people cannot expect any relief from a Court of law, far less a Court of equity, which the Writ Court is. One, who flouts the law, must suffer the consequences. Illegal constructions in the city of Kolkata, have assumed menacing proportions. Such constructions not only destroy the planned development of a city, but also put under tremendous pressure the civic amenities, which are not equipped to cope with unauthorized constructions. People, who take law into their own hands and put up constructions, more often than not for monetary gain, without obtaining prior sanction, should be dealt with in the strictest possible manner. It is true that the Building Rules, 2009, framed by KMC, were amended in 2015, to empower the Competent Authority in KMC to regularize minor unauthorized constructions. However, three floors raised without the support of a sanctioned building plan, can hardly qualify as minor unauthorized construction. We see no reason to interfere with the order of the learned Single Judge impugned before us. The appeal being MAT/821/2024 and the connected application

being IA No: CAN/ 1/2024 are dismissed with costs assessed at Rs. 10,000/- (Rupees Ten Thousand) to be paid to the High Court Legal Services Authority. Such payment is to be made within a fortnight from date."

5. Despite the order passed by the Hon'ble Division Bench, the petitioner has filed the present writ petition seeking disposal of his representation dated 06.05.2025, wherein he has prayed for retention of the two additional floors constructed without any sanctioned plan. The Hon'ble Division Bench has already rejected the petitioner's prayer for regularization of the said offending structure. There is no provision under the KMC Act which empowers the Corporation to permit retention of the unauthorized construction of three additional floors on payment of fees.

6. In view of the categorical stand taken by the Hon'ble Division Bench, this Court is of the considered opinion that the present writ petition is nothing but an attempt to stall the demolition proceedings in respect of the offending building and the illegal structures comprising three additional floors.

7. Accordingly, the writ petition stands dismissed with costs of Rs. 20,000/- (Rupees Twenty Thousand only), to be deposited by the petitioner with the West Bengal State Legal Services Authority within a period of four weeks from the date of this order.

8. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with usual formalities.

(Gaurang Kanth, J.)