

30.07.2025
Ct. No.3
Sl. No.23
akd

W. P. A. 16829 of 2025

[Ashima Bera -Vs- The Kolkata Municipal Corporation & Ors.]

Mr. Saurabh Guha Thakurta
Mr. Abhratanu Sarkar
Ms. Disha Roy
Mr. Partha Proteem Das
... .. for the petitioner

Mr. Debjit Mukherjee
Ms. Priyanka Jana
... .. for the KMC

Mr. Debanjan Mukherjee
Mr. Joyjit Roy Choudhury
... .. for respondent no.8

Mr. Tapan Coomaar Dey
Ms. Shayani Das
... .. for the State

1. Supplementary affidavit filed on behalf of the petitioner is taken on record.
2. The petitioner has preferred the present writ petition seeking a direction upon the respondent-Kolkata Municipal Corporation to consider and dispose of the petitioner's representation dated 22.07.2025, wherein the petitioner has sought permission for regularization of change of use in respect of two ground floor rooms at premises No. 276, Netaji Subhas Chandra Bose Road, Kolkata in terms of Section 416 of Kolkata Municipal Corporation Act, 1980 and Kolkata Municipal Corporation (Regularization of Building) Regulations, 2015.
3. It is the case of the petitioner that a multi-storied building complex was constructed at the aforementioned premises in question in accordance with sanctioned building plan dated 25.02.1992, by the erstwhile land owners in collaboration with a

Developer. The erstwhile land owner viz. late Salil Chandra Sen, had permitted his driver, viz. Monotosh Bera (petitioner's father-in-law), and his family members to reside in two rooms situated at the ground floor of the said premises, which was originally designated as generator and electrical rooms. Subsequently, by virtue of a registered Deed of Gift bearing No. 6495 dated 28.08.2018, the said two rooms were gifted to the petitioner. The petitioner and her family members have been residing in the said two rooms for the past three decades.

4. The petitioner further submits that a complaint was instituted by *M/s. Housing Development Forum* before the Learned District Consumer Disputes Redressal Forum, South 24-Parganas, alleging deficiency in service on the part of the Developer on the ground that the generator room had been converted into a residential unit. However, the said consumer complaint was dismissed vide order dated 31.08.1998, holding inter alia, that the ground floor had been constructed in terms of the agreement between the land owner and the Developer, and the purchasers of the flats were aware of the nature of construction, including the absence of the generator room. It is further submitted that in the year 2019, the petitioner undertook certain renovation works after duly intimating the respondent-Corporation.

5. However, the respondent-Kolkata Municipal Corporation issued a notice dated 17.04.2019 under Section 400(1) of the Kolkata Municipal Corporation Act, 1980 against the petitioner alleging unauthorized construction of 59.72 sq. mtrs. area and change of 42.62 sq. mtrs. area in deviation of sanctioned building plan dated 25.02.1992, resulting in alleged infringement

of building rules 62, 78, 133, 134 etc. of 2009 and change of generator rooms and car parking space into a residential accommodation. Pursuant to the said notice, an order of demolition of the impugned structures was passed on 25.07.2019. The petitioner challenged the said demolition order before the Municipal Building Tribunal in B.T. Appeal No. 11 of 2020. The Tribunal, vide order dated 30.03.2023, upheld the demolition order dated 25.07.2019. A revisional application being C.O. No. 1342 of 2023, preferred against the said order, was dismissed by the Hon'ble High Court vide order dated 22.05.2025. Thereafter, the respondent-Kolkata Municipal Corporation issued a notice under Sections 544 and 546 of the Kolkata Municipal Corporation Act, 1980 and proceeded with the demolition on 22.07.2025, thereby demolishing the alleged unauthorized construction at the ground floor. The building is stated to be uninhabitable at present. The petitioner, subsequently, had filed a review petition being RVW 198 of 2025, which was dismissed as withdrawn.

6. The petitioner, thereafter, submitted a fresh representation before the concerned authority seeking permission for change of use in respect of the said two rooms at the ground floor. The relief sought in the present writ petition is only a direction upon the respondent-Kolkata Municipal Corporation to consider and dispose of the representation of the petitioner.

7. Learned counsel for the respondent-Kolkata Municipal Corporation submits that the authorities are ready and willing to consider and dispose of the representation of the petitioner dated 22.07.2025.

8. In light of the above submission, learned counsel for the petitioner submits that the petitioner would be satisfied if her representation dated 22.07.2025 is considered and decided by the Corporation in a time-bound manner.

9. Accordingly, this Court directs the Executive Engineer (Building), Borough-X, Kolkata Municipal Corporation (respondent no.6), to consider and decide the representation of the petitioner dated 22.07.2025 by passing a reasoned and speaking order, strictly in accordance with law, within a period of six weeks from the date of communication of this order. Prior to the passing of such order, the said authority shall afford an opportunity of personal hearing to the petitioner as well as the private respondent no.8.

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.)