

07. 19.11.2025
Court No.03.
(Pritam)

**WPA 17472 of 2025
with
CAN 1 of 2025.**

Rochishnu Basu & Ors.

-Vs.-

The State of West Bengal & Ors.

Mr. Tapan C. Dey,
Ms. Shreya Chatterjee.

....for the petitioners.

Mr. Joydip Kar, Sr. Adv.,
Ms. Rajshree Kajana,
Mr. Uttam Sharma.

....for the applicants in CAN 1/2025.

Mr. Debjit Mukherjee,
Ms. Reshma Chatterjee.

....for the State.

Mr. Srijan Nayek,
Ms. Rituparna Maitra,
Mr. Atish Kr. Biswas.

....for the KMC.

Mr. Shounak Mukherjee,
Ms. Nikita Khaitan.

....for the respondent no.7.

1. Affidavit-of-service filed in Court today is taken on record.
2. The present writ petition has been filed, *inter alia*, praying for a direction upon the municipal authorities not to sanction any building plan in favour of the respondent no.7 at Premises No.203, Salil Chowdhury Sarani (formerly Raj Danga Road)

Kolkata – 700078 (hereinafter referred to as the said “premises”). In connection with the above writ petition, a connected application has been filed being CAN 1/2025.

3. Mr. Kar, learned senior counsel representing the applicants in the above application would submit that the applicants are the recorded owners in respect of the property in question. To substantiate the same, he has relied on a mutation certificate issued by the Kolkata Municipal Corporation.
4. Having regard thereto, I am of the view that since the applicants are the recorded owners in respect of the above property and are necessary parties, they have a right to be heard. Accordingly, leave is granted to the petitioners’ advocate-on-record to add the recorded owners as recorded in the municipal records, who are applicants herein, as added respondents in the instant writ petition in course of the day.
5. Since Mr. Kar waives formal service, the writ petition is taken up for consideration.
6. The writ petitioners would claim that the father of the petitioner nos.1 and 3 and the husband of the petitioner no.2 was an owner (in short the “original owner”) in respect of the landed property measuring more or less 0.76 acres of land situated at R.S. Dag No.2752, J.L. No.13, Khatian No.2233, Mouza-Kasba, erstwhile Police Station-Jadavpur, now Kasba,

Kolkata 700078 in the district of South 24 Parganas. Subsequent to the demise of the original owners, namely, Ranendra Nath Basu, the petitioners became joint owners, in respect of the property. According to the petitioners, the petitioners have recently observed that a 25 feet wide *pucca* road has been wrongfully and illegally constructed by the private respondent through the middle of the petitioners' property without the knowledge/consent/permission of the petitioners.

7. According to the petitioners, the same also does not have the approval of the Kolkata Municipal Corporation. The petitioners apprehend that the aforesaid road has been constructed with the sole object for obtaining sanctioned building plan for construction of high-rise building. It is under the circumstances as aforesaid, the petitioners have lodged a complaint with the municipal authorities on 12th June, 2025.
8. Mr. Nayek, learned advocate appearing on behalf of the Kolkata Municipal Corporation by placing a report dated 28th August, 2025, prepared by the respondent no.5, would submit that the proposal for sanction has already been submitted before the municipality for construction of a multi-storied residential building at Premises No.203, Salil Chowdhury Sarani, Ward No.107, Borough XII, and

such proposal is under the active consideration of the Municipal Building Committee. Let a copy of the above report dated 28th August, 2025 be taken on record.

9. Having heard the learned advocates for the respective parties, I find that the petitioners are primarily aggrieved with encroachment of the petitioners' property by the private respondent no.7 by constructing the *pucca* road with the object of obtaining sanctioned building plan for construction of a multi-storied high-rise building.
10. In my view, as to whether the private respondent has encroached upon petitioners' property cannot be conveniently adjudicated before this Court in exercise of its extraordinary writ jurisdiction. On such ground, I find no reason to admit the same. The petitioners have, however, also expressed an apprehension that the municipality may be influenced by the aforesaid road being shown as means of access to the property, as such this court should restrain the municipality from sanctioning any building plan. The Court considering the materials on record, is of the view that the writ petition cannot be maintained to adjudicate whether there has been encroachment. At the same time this Court is of the view that the municipal authorities are competent to consider the proposal for sanction of a

building plan. This apart, I find that the private respondent is not the recorded owner of the property. From the municipal records as placed before this Court, it would transpire that the property has been mutated in the name of the added respondents who have, in fact, put in a proposal for construction of a multi-storied building and the same is under consideration of the municipality. No decision has yet been taken. The municipal authority may or may not grant the sanction plan.

11. The petitioners have no right to restrain the municipal authorities from taking a decision on the issue of grant or non-grant of a proposal for sanction. The municipal authorities are free to take a decision. As such no interference is called for at this stage.
12. Since no affidavits have been called for, the allegations made in the writ petition are deemed not have been admitted by the respondents including the added respondents.
13. The writ petition along with the connected application being CAN 1 of 2025, which is an application for intervention, stand accordingly disposed of.

(Raja Basu Chowdhury, J.)