

Form No.J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA/26139/2025

**Bimala Halder
versus
Kolkata Municipal Corporation & Ors.**

For the petitioner : Mr. Ambu Bindu Chakraborty,
Ms. Mrinmoyee Roy Chowdhury

For the Kolkata : Mr. Biswajit Mukherjee,
Municipal Corporation Mrs. Sima Chakraborty

Heard on : 10.12.2025.

Judgment on : 10.12.2025

Raja Basu Chowdhury, J (Oral):

1. Despite service, the private respondent being the landlord and owner of the premises no. 56A/3, Salimpur Lane, P.S. – Kasba, Kolkata – 700 031 (hereinafter referred to as the “said premises”), is not represented.
2. The petitioner claims that the petitioner’s father, Jagannath Halder, since deceased, was a tenant in respect of one room, bathroom and privy at a monthly rental payable according to English calendar month in respect of the said premises. After the death of Jagannath Halder, the petitioner and her mother, brother and sister as co-

tenants are residing in the tenanted portion of the said premises. The petitioner would contend that the monthly rental in respect of the tenanted portion is being deposited with the office of the Rent Controller month by month and an eviction suit being TS/119/1996 which had been filed against the original tenant, has since been dismissed for default. It is also the petitioner's case that the petitioner is enjoying electricity at the tenanted portion through a separate electricity connection. Factum of the separate supply of electricity at the petitioner's tenanted premises would corroborate from the electricity bill for the month of July, 2025 which has been enclosed to the writ petition. According to the petitioner, though the premises in question has a water supply connection such connection is at the portion which is under the exclusive occupation of the owner. The owner/landlord has not favoured the petitioner any supply of water and the petitioner is unable to secure supply through the owner's connection.

3. In those circumstances, the petitioner had applied before the Executive Engineer, Water Supply Department, Kolkata Municipal Corporation with the request to provide the petitioner a separate water connection. Despite such request which was received by the office of the Executive Engineer, Water Supply Department on 25th September, 2025, since, no steps had been taken at the end of the Executive Engineer, the instant writ petition has been filed.

4. Mr. Mukherjee, Learned Advocate representing the Corporation has placed before this Court a sketch plan to demonstrate that there is an existing free domestic water connection to the premises in question. It has also been highlighted by Mr. Mukherjee that at present the petitioner is getting water supply from the Corporation stand post which is adjacent to the aforesaid premises. According to Mr. Mukherjee, ordinarily, one premises has only one domestic supply and the same is meant for convenience and use of all its occupants. According to Mr. Mukherjee, although the Corporation is not averse to supply of water to the petitioner's tenanted premises, however, he would submit that since there is an existing domestic supply, in the event an application is made for commercial supply such supply can be effected in terms of the provisions contained in Section 239 of the Kolkata Municipal Corporation Act, 1980 (hereinafter referred to as the "said Act"). He also relies on the unreported judgment delivered by the Coordinate Bench of this Court in the case of **Sk. Syeed Ahmed v. The State of West Bengal & Ors.**, in WPO 1168 of 2024, on 3rd July, 2025, to contend that since the petitioner seeks alternative domestic supply, the same ought not to be granted.
5. Mrs. Chakraborty, Learned Advocate appears for the petitioner and would submit that the petitioner cannot be saddled with the additional liability for supply of water though non-domestic supply. According to her, the Municipal Authorities are under a legal

obligation to supply water to the petitioner's tenanted premises, the Municipality cannot absolve themselves of such obligation.

6. Having heard the learned Advocates for the respective parties, I note that obligation to supply water by the Municipality has been enumerated as a duty of the Corporation and is provided in part V of the said Act. As per Section 234 of the said Act, it is the duty of the Corporation for providing supply of wholesome water. I also note that as per provisions of the aforesaid Section in Explanation-II, the term house has been explained to mean and include a building, flat as defined in the West Bengal Building (Regulation of Promotion of Construction and Transfer by Promoters) Act, 1993. As per Section 234A, the owner is entitled to recover fee for supply of water as is charged. I may note that under the provisions of the said Act, an occupier has also been defined. To morefully appreciate the same Section 2(60) of the said Act is extracted hereinbelow:-

“2(60) “occupier” includes any person for the time being paying or liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which the word is used or for damages on account of the occupation of such land or building, and also a rent-free tenant:

Provided that an owner living in or otherwise using his own land or building shall be deemed to be the occupier thereof;”

7. Admittedly, the petitioner has been able to demonstrate before this Court that the petitioner is a lawful occupier in respect of the aforesaid building and is occupying a portion of the aforesaid premises in his capacity as a tenant. Ordinarily, therefor, the

petitioner is entitled to supply water and such water ought to be provided by the Corporation through the owner. In the instant case, a peculiar situation has arisen, where the owner as landlord has refused to supply water to the petitioner. As such from the point on technical feasibility, this Court has ascertained from the corporation as to whether supply can be provided to the tenanted portion. Mr. Mukherjee has submitted by relying on the sketch plan that there will be not much difficulty in effecting supply of separate connection to the petitioner's portion since the supply from the main line to the owner's premises is through the common passage via a sub line connecting the same. If a connection is attached to the said sub supply connecting the owner's supply then water connection can be effected to the petitioner's premises on the ground floor portion of the tenanted portion itself which is unlikely to cause any technical issue subject to, however, the petitioner applying through a licenced plumber. Although, the corporation has relied on the unreported judgment delivered in the case of **Sk. Syeed Ahmed** (supra), I find that in the above case, the issue of supply of water was subjudice in a Civil Suit, and the writ petition was essentially an alternative plea to secure independent connection. Such is not the case here. The above judgment is distinguished on facts.

8. Considering the peculiar facts and the extraordinary circumstances, I am of the view that in the event the petitioner undertakes to bear all cost, charges and expenses for securing additional supply to its

tenanted premises from the main line or from the existing supply line, and makes an application through a licenced plumber, the Municipality shall effect such supply as per its technical feasibility, on the undertaking given by the petitioner that the petitioner shall not only bear the cost, charge and expenses for getting such connection but also shall repair common passage by restoring the same to its original State after the connection of water supply is connected to its premises.

9. It is made clear that once, an application is made though the registered/licenced plumber, the same shall be processed and the supply be connected by the Municipal Authorities as expeditiously as possible preferably within seven working days from the date of making such application and deposit of fees.
10. Accordingly, the writ petition stands disposed of with the above direction.
11. There will be no order as to costs.

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

(Raja Basu Chowdhury, J.)

**Srimanta
A.R. (Court)**