

10.12.2025
Court No.13
Item Nos.7 & 8
AP

MAT 1997 of 2025
With
CAN 1 of 2025
Mr. Kushan Nandy
Vs.
Dr. Atiya Saba Ahmed and Ors.
With
MAT 1999 of 2025
With
CAN 1 of 2025
Kushan Nandy
Vs.
The Kolkata Municipal Corporation and Ors.

Mr. Arindam Banerjee, Senior Advocate
Mr. Ayan Banerjee
Mr. Kuldeep Mallick
Ms. Atasi Sarkar
Ms. M. Dhur

.... For the Appellant.

Mr. Soumya Majumder, Senior Advocate
Mr. Anuj Singh
Mr. Zulfiqar Ali
Mr. Aditya Sarkar

.... For the Respondent No.1 in MAT 1997 of 2025
and Respondent No.4 in MAT 1999 of 2025

Mr. Shubhasis Sengupta
Mr. Biswajib Ghosh
Mr. Sarbajit Choudhury
Mr. Sahadat Ali

.... For the Respondent Nos.8 to 12
in MAT 1997 of 2025.

Mr. Alak Kumar Ghosh
Mr. Gopal Chandra Das

.... For the KMC in MAT 1997 of 2025.

Mr. Biswajit Mukherjee
Ms. Sima Chakraborty

.... For the KMC in MAT 1999 of 2025.

1. These appeals are directed against an order dated
3rd November, 2025 whereby two writ petitions were
disposed of by a Single Bench.

2. The first writ petition being WPA 13355 of 2025 was filed against the Kolkata Municipal Corporation for cancellation of a sanction plan granted to the private respondents to construct a ground plus six storeyed structure on the property in question. WPA 21252 of 2024 was filed challenging inaction of the Corporation in respect of the application for cancellation of sanction plan.

3. The two writ petitions are taken up together. Admittedly, the appellant has filed Title Suit No.1141 of 2024 before the learned Civil Judge (Senior Division), 2nd Court at Alipore challenging the title of the private respondents in respect of the subject property. Another suit has been filed by the private respondents being Title Suit No.1163 of 2024 also questioning the title of the appellants to the property.

4. The Single Bench relied upon a report of a Special Officer appointed by itself where the Single Bench found that most of the construction of the building was completed. This is disputed by the counsel for the appellant stating that the Special Officer has not said so.

5. Prior to the orders in the civil suit, given the huge volume of litigation i.e. civil and criminal pending between the appellant and the private respondents, the Municipal Commissioner kept the sanction plan in abeyance and directed issuance of a notice of stop work

under Section 400(1) of the KMC Act, 1980 on the subject premises.

6. The private respondents applied before the Civil Court and obtained an order of status quo to restrain the appellant from interfering with their possession and restraining the appellant from interfering with the construction of the property.

7. According to the counsel for the appellant by a subsequent order dated 10th April, 2025 interlocutory applications in both the suits were disposed of directing the parties to maintain status quo as regards nature and character and possession of the property.

8. An application for modification has been filed by the private respondents, which was directed to be heard and disposed of by the Single Bench.

9. Counsel for the parties have placed the respective arguments before this Court. This Court has also heard the Kolkata Municipal Corporation. While it is true that the Civil Court's jurisdiction is confined to the title disputes between the appellant and the private respondents, it is equally settled law that in view of Sub-section 2 of Section 401 no Civil Court can interfere or pass orders in respect of the matters within the sole jurisdiction of the Municipal Commissioner under the KMC Act of 1980. The Single Judge, therefore, erred in making any observation to the contrary.

10. It appears that the Municipal Commissioner has in his wisdom issued a stop work notice under Section 400 (1) of the KMC Act of 1980. The powers of the Municipal Commissioner and his hand shall not be fettered by any orders of the Civil Court. The Civil Court may proceed to decide the applications pending before it, inter alia, for modification of its orders or for violation of any orders, if so, applied for by and between the parties.

11. The Municipal Commissioner shall take steps as he may be authorized under the Act uninhibited or restricted by any order that may be passed by the Civil Court.

12. With the aforesaid observations, the impugned order shall stand modified accordingly.

13. The appellant may take exception to any reports filed before the Single Bench, if placed before the Civil Court. The Civil Court shall proceed in the two suits based on the evidence before it, independent of any observation made by the Single bench or this Bench.

14. However, the applications before the Single Bench which are pending and those that may be filed if at all within next seven days shall be disposed of by the Civil Court as expeditiously as possible preferably within a period of two months from date.

15. With the aforesaid observations, MAT 1997 of 2025 and MAT 1999 of 2025 are disposed of.

Consequently, all connected pending applications, if any, are also disposed of.

16. There shall be no order as to costs.

17. 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.)