

Form No.J(2)

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

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 27775 of 2025

**Shivsakti Construction
Versus
Howrah Municipal Corporation & Ors.**

For the petitioner : Mr. Sumitava Chakraborty.

For the respondent nos. : Mr. Washim Akhtir Daffader.
4 to 10.

For the respondent no. : Mr. Aman Gupta,
14. Mr. Ishan Bhattacharya.

For the HMC. : Mr. Sandipan Banerjee,
Mr. Ankit Sureka.

Heard on : 05.12.2025.

Judgment on : 05.12.2025

Raja Basu Chowdhury, J (Oral):

1. Affidavit-of-service filed in Court today is taken on record.
2. This matter has a chequered history. Initially, the petitioner had by asserting that it had relevant sanctioned building plan to construct on 70 Sastri Narendra Nath Ganguly Road, Police Station-Chatterjeehat, Howrah-711 104, (hereinafter referred to as the "said premises") had filed a writ petition being WPA 5998 of 2025, *inter alia*, seeking for a direction restraining the municipal corporation

from in effect, proceeding with any demolition proceeding in respect of the said premises.

3. By an order dated 18th March, 2025, a Co-ordinate Bench of this Court taking note of the case made out had appointed a Special Officer to carry out an inspection of the said premises.
4. By such order the Court had also restrained the municipal corporation to carry out any demolition for two months. The Special Officer had, thereafter, carried out the inspection on the basis of the materials on record and the Court came to a conclusion that the petitioner holds a sanctioned building plan for a G+3 storied building and accordingly, held that the unauthorized construction pertains to the fourth floor.
5. In the interregnum, since a modification application was filed, the Court taking into consideration the modification application filed by the petitioner and the aforesaid report, had passed an order dated 13th May, 2025 thereby modifying and limiting the interim order exclusively to fourth floor of the said premises. It was, however, clarified that the interim order as modified shall not preclude the corporation from initiating or continuing with the demolition proceedings in respect of a deviation on the other floors of the building.
6. Later, the Co-ordinate Bench, by order dated 1st August, 2025, at the instance of the petitioner, permitted it to submit a representation together with “as made” plan before the

Commissioner, Howrah Municipal Corporation within a week from the date of passing of such order, and the interim order was passed restraining the demolition of the deviated portions up to the third floor for a period of 8 weeks from the date of such order, or until the commissioner passes an order on the representation, whichever is earlier. Insofar as the fourth floor is concerned, it was made clear that the corporation shall be free to demolish the same as the same was unauthorised.

7. According to the petitioner, the municipal commissioner having not decided on the petitioner's representation though such representation was filed along with "as made" plan on 4th August, 2025, a further connected application was filed by the petitioner whereupon by an order dated 26th September, 2025, this Court taking note of the submissions made by the parties, made it clear that unless, a decision is taken by the Commissioner as regards the "as made" plan upto the third floor, the deviated portions upto the third floor, shall not be demolished.
8. Mr. Chakraborty, learned advocate for the petitioner would submit that no decision has yet been taken by the Corporation insofar as the "as made" plan is concerned. At least, there is no communication in this regard from the municipal authorities.
9. Mr. Banerjee, learned advocate representing the municipal authorities is also unable to enlighten this Court as to whether a decision has been taken on the petitioner's representation.

10. Having heard the learned advocates for the respective parties and upon going through the materials on record, I find that since the Co-ordinate Bench of this Court has already directed the Commissioner, Howrah Municipal Corporation to take a decision on the petitioner's representation with a further direction that the portions up to the third floor shall not be demolished prior to taking of such decision, I am of the view that there is no scope for the municipal authorities to proceed with the demolition up to the third floor at this stage. At least, till such time, the decision in this regard is communicated to the petitioner. Insofar as the fourth floor is concerned, the petitioner cannot resist the demolition thereof.

11. Accordingly, the municipal authorities are free to proceed with the demolition of the fourth floor, which is completely unauthorized as liberty has already been granted to the corporation to proceed with the demolition thereof.

12. In view of the above, nothing survives in the instant writ petition. Accordingly, WPA 27775 of 2025 is disposed of accordingly.

13. There shall be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)