

17.12.2025
Ct. 3
Item No.
AD 25
Saswata

WPA 28023 of 2025
Hindusthan Udyog Limited & Anr.
Versus
The Kolkata Municipal Corporation & Ors.

Mr. Arindam Banerjee, Sr. Adv.
Mr. Victor Chatterjee
Mr. Viraj Gupta

... For the petitioner

Mr. Abhrajit Mitra, Sr. Adv.
Mr. Rajarshi Dutta
Mr. Soumyadeb Sinha
Mr. Gangopadhyay

...For the respondent no. 7

Mr. Krishnaraj Thakkar, Sr. Adv.
Mr. Sourav Sharma

...For the respondent no. 9

Mr. Debjit Mukherjee
Mr. Kaustav Bhattacharya

...For the KMC

1. Supplementary affidavit filed on behalf of the petitioners is retained with the record.
2. The present writ petition has been filed, inter alia, praying for a direction upon the respondent nos. 1 to 6 to ensure that the excavation that is taking place in connection with the construction work which is being carried on at the premises no. 3, Dover Park, Ward no. 069, Borough-VIII be brought to a halt.
3. Mr. Banerjee, learned senior advocate appears on behalf of the petitioners. It is the petitioners' case that the petitioners are the owner in respect of premises no. 2 Dover Park, Ward no. 069, Borough-VIII, Kolkata. He submits that the adjacent property being premises no. 3, Dover Park, Ward no. 069, Borough-VIII is being developed. According to him, by reasons of the construction work and/or the excavation work that is being carried out at premises

no. 3, Dover Park, Ward no. 069, Borough-VIII the boundary wall between the two aforesaid premises, started developing cracks and a portion thereof has collapsed. This apart, the passage adjacent to the boundary wall which forms part of premises no. 2, Dover Park, Ward no. 069, Borough-VIII has also developed vertical cracks of 15 cms. width and unless, the aforesaid excavation is halted, it is more unlikely than not that the cracks will enlarge causing serious damage to the petitioners' property.

4. Mr. Mitra, learned Senior advocate appears on behalf of the respondent no. 7 who is the developer in respect of premises no. 3, Dover Park, Ward no. 069, Borough-VIII and Mr. Thakkar, learned senior advocate appears on behalf of the respondent nos. 8 and 9 who are the owners in respect of the premises no. 3, Dover Park, Ward no. 069, Borough-VIII.
5. Mr. Mitra, by placing before this Court the order dated 1st December 2025 submits that since the petitioners were attempting to interfere with the construction work in relation to the boundary wall a title suit being TS no. 1939 of 2025 was filed and the Learned Civil Judge (Junior Division) 2nd Additional Court, Alipore, by order dated 1st December 2025 was, inter alia, pleased to pass an ex parte ad interim order restraining the defendant no. 1 from unlawfully creating any obstruction in the repair / reconstruction of the Schedule B property which happens to be the boundary wall. According to him, the developer on behalf of the owners had obtained a

sanctioned building plan and the construction that is being carried at premises no. 3, Dover Park, Ward no. 069, Borough-VIII, is as per the sanctioned building permit issued by the municipal corporation.

6. The corporation is represented.
7. Heard the learned advocates appearing for the respective parties. In response to a query of this Court, Mr. Mitra on instruction, submits that subject to concurrence of the petitioners, the respondent no. 7 is ready and willing and agreeable to repair the passage adjacent to the boundary wall which falls on premises no.2 Dover Park, Ward no. 069, Borough-VIII at the cost and expense of the respondent no. 7 without in any manner admitting that the alleged cracks, have occurred by reasons of the construction work.
8. Though, Mr. Banerjee disputes such submission and submits that the construction work that it being carried on does not have proper sanction of the municipal authorities, and is beyond the sanction granted by the municipal authorities, however, he would agree to the developer repairing the passage adjacent to the boundary wall at premises no. 2, Dover Park, Ward no. 069, Borough-VIII. Since, the petitioners have more or less agreed in principal to the proposal of the respondent no.7 for repairing the passage, for carrying out the aforesaid repair work the petitioners shall issue appropriate letter authorizing the respondent no. 7 to undertake such repair works.

9. Insofar as the boundary wall is concerned, since there is a subsisting order passed by a Civil Court, I am of the view that this Court should refrain from passing any order in this regard.
10. Since, no affidavit has been called for the allegations made in the petition are deemed not to have been admitted by the respondents.
11. With the above direction the writ petition is disposed of.
12. All parties shall act on the basis of the server copy of this order duly downloaded from this Court's official website.

(Raja Basu Chowdhury, J.)