

30.04.2025
Court No.13
Item No. 7 & 8
sp

FMA 258 of 2025
With
CAN 1 of 2025

Rajnish Sharma
Vs.

The Kolkata Municipal Corporation & Ors.

With
WPA 7055 of 2025
With
CAN 1 of 2025

The West Bengal Readymade Garment Manufactures and
Dealers Association & Anr.

Vs.

The Kolkata Municipal Corporation & Ors.

Mr. M.P. Gupta

...for the appellant (both the matters).

Mr. Biswajit Mukherjee,

Mr. Sumitava Chakraborty

...for the petitioner in WPA 7055 of 2025 and respondent
no. 17 and FMA 258 of 2025.

Mr. Alok Kumar Ghosh,

Mr. Gopal Chandra Das

...for the KMC (both matters).

Mr. Biswajib Ghosh,

Mr. Basudeb Patra

..for the respondent no. 13 in FMA 258 of 2025 and respondent
no. 9 in WPA 7055 of 2025.

Mr. Gourav Das,

Ms. Tuli Sinha

..for the respondent no. 8 in WPA 7055 of 2025.

Mr. Arindam Banerjee,

Mr. Kriti Keshri

..for the respondent nos. 14 to 16.

1. The instant appeal is directed against an order dated 22nd November, 2024 passed by a Single Bench of this Court in WPA 529 of 2024.

2. The writ petitioner appellant claims to be the neighbouring resident of the premises in question. The writ petitioner had complained before the Single Bench that there was unauthorized construction on the 5th floor of a building situate and lying at 54A/1, Zakaria Street, Kolkata-700073.
3. The Single Bench did not find favour with the writ petition on the two-fold grounds. Firstly, that he is a busy body and has no locus standi to question a construction and its legality. The Single Bench relied upon a RTI response dated 22nd November, 2019 issued by the KMC to the effect that there was no pending proceedings in respect of the 5th floor upwards of the said building.
4. Before this Court, however, several new documents and evidence have been filed by the appellant, that were not available to him when the writ petition was filed. An interesting development thereafter occurs. The persons claiming to be lawful owners of the 5th floor of the building, have filed WPA 7055 of 2025 claiming several reliefs against the municipal corporation as regards the 5th floor.
5. Mr. Ghosh, learned Senior Counsel appearing for the KMC has submitted that there is in existence

an order passed by the Mayoer-in-Council under Sub-Section 8 of Section 400 of the KMC Act, 1980 in the year 2018. Mr. Ghosh needs instructions to ascertain as to why the order of immediate demolition under Sub-Section 8 of Section 400 passed by the Mayor-in-Council has not been implemented till date.

6. It prima facie appears to this Court that the petitioner in WPA 7055 of 2025, who claims to have purchased 5th floor of the said building in 2021 may have purchased a non-existent and illegal premises in the eye of law.
7. This Court, however, does not choose to make any final pronouncement thereon.
8. Since fresh documents have been filed by the appellant and there admittedly existed proceedings under Sub-Section 8 of Section 400 of the KMC Act, 1980 initiated by the Mayor-in-Council in the year 2018, this Court is of the view that the appellant in FMA 258 of 2025 may apply before the Single Bench with an appropriate application to bring on record the new documents and evidence. WPA 7055 of 2025 is itself evidence of certain proceedings having occurred in respect of the said municipal premises.

9. In view of the above, this Court is of the view that the parties should not lose any fora and hence WPA 7055 of 2025 is remanded back for being considered by the Single Bench along with or independent of any application that the appellant may take out as indicated hereinabove.
10. The impugned order dismissing WPA 529 of 2024 is set aside to facilitate implementation of the aforesaid order.
11. With the aforesaid observations, FMA 258 of 2025 along with connected applications shall stand disposed of.
12. The application for extension of interim order filed in WPA 7055 of 2025 shall be considered by the Single Bench as it may deem fit and proper.
13. There shall be no order as to costs.
14. 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.)