

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/203/2025
ASIS CHAKRABORTY ALIAS TUKAI CHAKRABORTY
VS
THE KOLKATA MUNICIPAL CORPORATION AND ORS

BEFORE:

The Hon'ble JUSTICE GAURANG KANTH

Date : MAY 22, 2025

Mr. Raghunath Chakraborty, Adv....for petitioner.

Mr. Alok Kr. Ghosh, Adv.

Mr. Swapan Kr. Debnath, Adv

Mr. Gopal Chandra Das, Adv.. ...for KMC.

The Court:- The petitioner has preferred the present writ petition seeking direction against demolition action to be initiated by respondent Municipality in pursuance of notice dated 10.3.2025, issued by the Executive Engineer (C), Building vide memo no.KMC/Bldg/Br-XI/186/24-25.

It is the case of the petitioner that he is a tenant occupying an asbestos shed shop room situated at embankment of pond at B-73, Bandipur Road, Kolkata – 700 070, adjacent to premises no.138, Bondipur Road, Kolkata – 700 070. The said structure is claimed to be located on the embankment of a pond at B-73, Bandipur Road, Kolkata – 700 070, is asserted to be distinct and separate from the premises no. 138, Bondipur Road, Kolkata – 700 070, the later being the property in respect to which the impugned demolition notice has been issued.

It is pertinent to mention that there is a civil suit being no. TS 342 of 2014 pending in Alipur Court in respect of the said shop room against eviction. It may further be pointed out that as of now, the petitioner has been depositing the rent in the Court of Learned Rent Controller, Alipur.

The petitioner filed writ petition, WPO/24444(W)/2014 against the cancellation of the building sanction plan in respect of the premises no.138, Bandipur Road, Kolkata 700 070 and at his instance, BL&LRO passed an order

dated 4.1.2018 cancelling the building sanctioned plan issued for the premises no.138, Bandipur Road, Kolkata. Again, he had approached this court in WPA/20480/2018 for demolition of the said premises and at his instance, the Executive Engineer, Building had passed an order dated 10.3.2025 initiating the process of demolition of the said building.

Now, the petitioner is apprehending that the Kolkata Municipal Corporation officials allegedly in connivance with his landlord will demolish his tenanted premises. It is his submission that he had earlier also filed TS/342/2014 wherein this court had granted an ex parte order dated 14.9.2014 restraining the defendant from obstructing the peaceful possession and/ or from forceful eviction of the petitioner from the said property without following due process of law. In view thereof, the petitioner is seeking protection against the demolition of his tenanted premises.

This Court has duly heard the submissions advanced by the learned counsel for the petitioner and carefully perused the documents placed on record. It appears that the demolition notice dated 30.03.2025 was issued at the instance of the petitioner himself, who sought to assert his rights in an ongoing dispute with his landlord. The Executive Engineer, Building Department acting upon the petitioner's representations, issued the said notice initiating demolition proceedings in respect of the unauthorized structure located at premises no. 138, Bondipur Road, Kolkata- 700 070.

The petitioner now contends that the premises occupied by him distinct and separate from the said premises and therefore, are not subject to or covered by the demolition proceedings initiated by the respondent Municipal Corporation.

This Court is unable to comprehend the basis of the petitioner's grievance, as it is evident that the petitioner is in occupation of a distinct and separate property, which is not the subject matter of the demolition notice dated 10.03.2025. The writ petition appears to have been instituted solely on

the basis of an apprehension, without any cogent material to suggest that the impugned action pertains to the petitioner's premises.

In view of the circumstances, and the absence of any nexus between the petitioner's property and the demolition proceedings in question, this Court finds no justification to invoke its extraordinary and discretionary jurisdiction under Article 226 of the constitution of India on the basis of a mere apprehension.

In view of the above, the present writ petition is dismissed.

(GAURANG KANTH, J.)

pkd.