

ORDER SHEET

WPO/227/2025

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

R K P UDYOG LTD.
Versus
KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:
The Hon'ble JUSTICE GAURANG KANTH
Date : 26th June, 2025.

Appearance
Ms. Geetika Agarwal, Adv.
Ms. Lakshmi Shaw, Adv.
Mr. Rukaiya Firdaus, Adv.
...for the petitioner

Mr. Sandipan Banerjee, Adv.
Ms. Gulnaz Quraishi, Adv.
...for KMC

The Court: The petitioner in the present writ petition challenges the condition imposed by the respondent-Corporation directing the petitioner to demolish the existing structure located at premises no. 214, C.R. Avenue, Kolkata, only after the rehabilitation of the tenants and/or occupants.

It is the petitioner's case that the said building is in a dilapidated and unsafe condition and that it is currently occupied by numerous unauthorised occupants/tenants and trespassers. The petitioner has already initiated eviction proceeding against such persons. Previously, the petitioner, in response to a notice issued under Section 412A of the Kolkata

Municipal Corporation Act had filed WPO 2393 of 2022, contending that the occupants/trespassers are in occupation of the said dangerous building, which posed a serious threat to life and property and the petitioner shall not be held liable for any untoward incident resulting from the failure of the occupants to vacate the premises.

By an order dated 31.08.2022, this Court disposed of the said writ petition with a direction upon the respondent Corporation to pass a reasoned order after affording an opportunity of hearing to all concerned parties, including the occupants of the premises in question. Pursuant to such direction, the respondent Corporation after hearing all the relevant stakeholders directed demolition of the existing building under the supervision of an empanelled Structural Engineer of KMC, subject to prior rehabilitation of the occupants/tenants and further directed that, upon completion of the new construction, equivalent accommodation be provided to all such persons. The petitioner is aggrieved by the said condition and has, therefore, approached this Court by way of the present writ petition.

As per the provision of Kolkata Municipal Corporation Act, 1980, particularly, Section 393 and 394, it is incumbent upon the landlord to ensure the safety of occupants residing in buildings that have been declared unsafe or dangerous. Section 394 of the Act empowers the Commissioner, Kolkata Municipal Corporation to require demolition or necessary repair of such building, and mandates the discontinuance of occupation if the said structure is deemed dangerous to human life.

In the present case, the building in question has been duly declared dangerous structure by the Kolkata Municipal Corporation after following due process. The statutory obligation, therefore, falls squarely upon the landlord to provide alternate arrangements for the temporary accommodation of the displaced tenants. Such arrangements may include the erection of temporary sheds or providing rental accommodation until the building is reconstructed or made habitable again.

The Hon'ble Supreme Court in the case of **Sodan Singh vs. NDMC, 1989(4) SCC 155** held that the right to livelihood is an integral basis of right to life under Article 21 of the Constitution. The said principle has been further reinforced in **Olga Tellis vs. Bombay Municipal Corporation (1985) 3 SCC 545** where it has been observed that eviction of persons without providing alternate accommodation, especially when the eviction is in the interest of public safety or urban planning, would amount to a violation of their fundamental rights. In the same context, this Court in **KMC vs. Santilal Bafna 2003 (3) CHN, 13** held that while the Corporation is vested with the authority to declare a building unsafe and initiate demolition proceedings, such actions cannot be construed as enabling landlords to evict tenants. Rather, these measures are undertaken in the interest of public safety. The duty of rehabilitating the tenants falls upon the landlord, not on the municipal authorities.

It is, therefore, manifest that the proceedings initiated by the Kolkata Municipal Corporation are administrative and regulatory in nature and are

aimed solely for safeguarding human life and structural integrity. They are not in furtherance of any private interest of the landlord.

In the light of the above statutory framework and judicial precedents, this Court finds no infirmity in the condition imposed upon the petitioner (landlord) to provide for temporary rehabilitation to the occupants. The obligation is not only statutory but also in consonance with the principles of fairness and equity.

Accordingly, the present writ petition is dismissed.

(GAURANG KANTH, J.)

R.Bhar/sg