

CC/74/2025

IN THE HIGH COURT AT CALCUTTA
Special Civil Jurisdiction (Contempt)
ORIGINAL SIDE

PRADEEP KUNDALIA AND ANR.

-Versus-

DHAVAL JAIN AND ORS.

BEFORE :
THE HON'BLE JUSTICE DEBANGSU BASAK
And
THE HON'BLE JUSTICE MD. SHABBAR RASHIDI
Date : 24th June, 2025.

Appearance :

Mr. Soumik Ganguly, Adv.
Ms. Arpita Saha, Adv.
Ms. Kumkum Mukherjee, Adv.
...for the petitioner.

Mr. Saptangsu Basu, Sr. Adv.
Ms. Vijaya Bhatia, Adv.
Mr. Ganesh Prasad Shaw, Adv.
Mr. Harshit Thirani, Adv.
...for the respondent.

Mr. Alak Kumar Ghosh, Adv.
Ms. Sima Chakraborty, Adv.
...for the KMC.

The Court : The application for contempt is at the behest of the promoters of a building who were party respondents in an appeal.

Learned advocate appearing for the applicants submits that, the respondents are guilty of wilful and deliberate violation of the judgment and order dated February 27, 2025 passed in APO/18/2024 and APO/20/2024. He draws the attention of the Court to the direction contained in such judgment and order. He submits that, Kolkata Municipal Corporation (KMC) authorities were directed to restore the disputed portion to the position as

obtaining in terms of the original sanction. He submits that, under the garb of restoring the position as obtaining in terms of the original sanction, KMC authorities proceeded to demolish other portions of the building which caused prejudice to the structural stability of the building. He submits that, the Corporation authorities are wilfully and deliberately violating the judgment and order dated February 27, 2025.

Affidavits filed in Court be taken on record.

Learned advocate appearing for the Corporation submits that, the Corporation undertook a demolition exercise strictly in terms of the judgment and order dated February 27, 2025 and the KMC authorities did not demolish any portion other than what was directed by the judgment and order dated February 27, 2025.

Learned senior counsel appearing for some of the private parties submits that, a Special Leave Petition (SLP) directed against the judgment and order dated February 27, 2025 was filed which was permitted to be withdrawn by an order dated March 21, 2025. He submits that, a review petition was filed by a subsequent purchaser directed against our judgment and order dated February 27, 2025, which was dismissed on May 6, 2025. He further submits that, his clients did not demolish any portion of the building concerned. Demolition work was carried out by the Corporation authorities in terms of the judgment and order dated February 27, 2025.

By our judgment and order dated February 27, 2025, we directed KMC authorities to restore the disputed portion to the position as obtaining in terms of the original sanction. A Special Leave Petition (SLP) carried against our judgment and order dated February 27, 2025 was allowed to be withdrawn

on March 21, 2025. Review of the judgment and order dated February 27, 2025 prayed for on behalf of the subsequent purchaser was dismissed.

Thereafter, KMC authorities undertook a drive in terms of the judgment and order dated February 27, 2025. According to the petitioner before us, KMC authorities exceeded the direction contained in the judgment and order dated February 27, 2025. According to the KMC authorities, they did not exceed such direction.

There are no conclusive materials on record to establish that KMC authorities exceeded the direction contained in the judgment and order dated February 27, 2025. Apparently, a demolition work was undertaken by the KMC authorities.

The KMC authorities claim that the demolition carried out is within the parameters of the judgment and order dated February 27, 2025 while the petitioners before us claim that KMC authorities demolished portions far in excess than was permitted.

Since the issue is not conclusively established before us as to whether KMC authorities exceeded the parameters of the judgment and order dated February 27, 2025, we are not minded to invoke our jurisdiction under Article 215 of the Constitution of India or the Contempt of Courts Act, 1971.

Accordingly, CC/74/2025 is dismissed without any order as to costs.

(DEBANGSU BASAK, J.)

(MD. SHABBAR RASHIDI, J.)