

ODSL-2

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE
WPO/389/2025
MOUMITA SEN
VS
STATE OF WEST BENGAL AND ORS.

BEFORE:

The Hon'ble JUSTICE GAURANG KANTH

Date: 22nd May, 2025.

Appearance:

Mr. Sakya Sen, Sr. Adv.

Mr. Somnath Gangopadhyay, Adv.

...for petitioners

Mr. Arindam Mandal, Adv.

...for State respondents

Mr. Sandipan Banerjee, Adv.

Mr. Gopal Chandra Das, Adv.

...for K.M.C.

The Court:- The petitioner has preferred the present writ petition challenging the impugned notice dated 20.05.2025 issued under Section 544 and 546 of the Kolkata Municipal Corporation Act, 1980 by the respondent No. 5 for execution of an order dated 14.12.2024 in respect of property No. 3A, Chaulpatti Lane, P.S.Belegkata, Calcutta.

This is the second round of litigation qua the said property. It is the contention of the petitioner that she is the joint owner of the aforementioned premises in question, by virtue of a separate registered instrument. The said property is comprising of 'Bastu' land measuring about 5 Cottahs more or less and the petitioner is owner of undivided half share in the said property which is mutated in joint names of both the petitioner along with his co-sharer. After

that the petitioner duly obtained a sanctioned building plan, issued by respondent no. 5 for raising 4 storied building at or upon the said property. Pursuant to such said sanctioned building plan, the petitioner and her co-sharer started raising construction of the 4 storied building and in course of such construction work, a writ petition being WPA No. 1570 of 2024 was filed by one Pranab Kumar Dutta, alleging unauthorised construction raised by the petitioner herein.

The said earlier writ petition was disposed of by an order dated 30.04.2024, directing the respondent No. 4 being the Executive Engineer (Building) Borough III was to consider and dispose of the representation made by the said petitioner strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioner (complainant) within a period of three months from the date of communication of this order. The order recorded a spot inspection shall also be conducted to ascertain the nature and extent of unauthorised construction. The petitioner states that a notice was issued for spot inspection on 03.09.2024 but no report of the on spot inspection was given to the petitioner. Thereafter, the respondent no. 5 issued a notice dated 11.11.2024, directing the petitioner and her co-owner to appear before the said authority on 18.11.2024 at 2.00 PM, at the chamber of Executive Engineer (Building), in connection with a hearing pursuant to the order dated 30.04.2024, passed in WPA No. 1570 of 2024. The petitioner states that he had sent a letter dated 16.11.2024 seeking adjournment on the ground that the petitioner was unwell and had also attached a medical certificate and requested to fix up another date for hearing

after 30.11.2024. The petitioner states that today with utter surprise he has been served with a demolition notice dated 20.05.2025 which has been affixed on his property which reflects that a demolition order has been passed on 14.12.2024 under Section 400(1) of the K.M.C. Act. The petitioner further submits a notice allegedly issued by the respondent no. 5 under Section 544 and 546 of KMC Act, 1980 was posted on outer wall of the said property, which reflects that a demolition order has been passed on 14.12.2024 under Section 400(1) of the KMC Act. The petitioner submits that the demolition order dated 14.12.2024, was passed without affording her an opportunity of hearing, in violation of the directions issued by this Court in the earlier writ petition, being WP No. 1570 of 2024, wherein it was specifically directed that the respondent authority must provide the petitioner an opportunity of hearing before taking any adverse action.

Learned Counsel for the respondent Municipality Mr. Banerjee submits that they are ready and willing to grant an opportunity of hearing to the petitioner on 28.05.2025 at 1.00 PM at the Chamber of Executive Engineer (Civil), Building Department, Borough III, Kolkata Municipal Corporation, 109, Maulana Abdul Kalam Azad Sarani, Kolkata. Learned Counsel for the respondent shall also provide an on spot inspection report to the petitioner at the time of hearing.

Needless to state after conducting the hearing the respondent shall pass a speaking order within a period of eight weeks thereafter.

It is made clear that no notice of hearing shall be served upon the petitioner. They are directed to appear on 29.05.2025 as per the direction of this Court at the above mentioned date and time.

The demolition order dated 14.12.2024 as well as the notice in pursuance of the demolition order is also set aside.

With the above direction the present writ petition is disposed of.

(GAURANG KANTH, J.)

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