

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/767/2025

J THOMAS & COMPANY PRIVATE LIMITED & ANR.
VS
UNION OF INDIA & ORS.

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : 16th December, 2025.

Appearance:

Mr. Arindam Banerjee, Sr. Adv.
Mr. Sankarsan Sarkar, Adv.
Mr. Victor Chatterjee, Adv.
... for the petitioners

Mr. Srijib Chakraborty, Adv.
Mr. Sayak Ranjan Ganguly, Adv.
... for the respondent nos.1 to 5

Mr. Alak Kumar Ghosh, Adv.
Ms. Manisha Nath, Adv.
... for the KMC

1. The petitioners have made an application to the competent authority, being the Regional Director (Eastern Region), Archeological Survey of India for repair of the building situated at 11, R.N. Mukherjee Road, 'Nilhat House', Kolkata-700 001.
2. On 20th October, 2023, the Conservation Assistant, the Archeological Survey of India, Kolkata Sub-Circle, respondent no.4, issued a notice directing the petitioners to stop the construction work and subsequently again on 2nd November, 2023, a notice was issued to the petitioners requesting the petitioners to stop the ongoing repairing work and refrain from doing any kind of further repairing the construction.

3. Being aggrieved with the said notice, the petitioners have filed the present writ application praying for setting aside and quashing the said notice and allowing the petitioners to repair the said work of the building in question.
4. He submits that the respondent authorities are not allowing the petitioners for the repairing work as the building in question is situated within 100 mtr. distance from the National Monument.
5. Learned counsel for the petitioners submits that the respondents cannot stop the repair work, even the building in question is situate adjacent to the National Monument.
6. Learned counsel for the petitioners has relied upon the judgment in the case of Ardhendu Kumar Das vs. State of Odisha & Ors., reported in (2022) 14 SCC 227 and submits that the legislative intent is clear that four categories which are excluded from the definition of “construction” as defined in clauses (da) of Section 2 of the Act would not be treated as construction. He submits that in the present case also the petitioners are not making any construction. The petitioners are making the renovation work. He further submitted the petitioners have started the renovation work only after receipt of the report from the Jadavpur University and No Objection certification from the Kolkata Municipal Corporation.
7. Learned Counsel appearing for the Archeological Survey of India has filed a report. Let the same be kept with the record. On instruction he submits that the application submitted by the petitioners for repair of the building in question was returned back to the petitioners on 7th February, 2025 for submission of additional documents/information. He submits that the

- petitioners have not submitted the relevant documents in terms of the notice dated 25th November, 2025 and as such the writ application filed by the petitioners is premature and liable to be dismissed.
8. Considered the submissions made by the Counsel for the respective parties.
 9. This Court finds that the petitioners have already obtained No Objection certificate from the Kolkata Municipal Corporation on 13th March, 2025 and the petitioners have submitted an application before the Archeological Survey of India for repair of the premises but the said application was returned to the petitioners for submission of relevant documents.
 10. Accordingly, the writ petition is disposed of by directing the petitioners to file a fresh application along with the relevant documents in terms of the letter dated 25th November, 2025 to the competent authority, that is, The Regional Director (Eastern Region), Archeological Survey of India, Currency Building, 1, B.B.D. Bag, Kolkata-700 001, respondent no.5, within two weeks from the date. On receipt of the application, the respondent no.5 shall take appropriate decision within a period of 6(six) weeks and to communicate the same to the petitioners.
 11. It is made clear that this Court has not gone into the merit of the matter and only on the basis of the letter dated 25th November, 2025, wherein the authorities have returned the application to the petitioners, this Court has passed the present order.
 12. Learned counsel appearing for the respondent no.5 is directed to serve a copy of the communication dated 25th November, 2025 along with the

connected documents to the learned Advocate on record for the petitioner by 19th December, 2025.

(KRISHNA RAO, J.)

SN/gb.
AR(CR)