

OD-7

ORDER SHEET
WPO/1234/2024
IA NO: GA/1/2025
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

PRIMELINK TRADECOM LLP AND ANR.

VS

THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE GAURANG KANTH

Date: 1st May, 2025.

Appearance:

Mr. BikashRanjanBhattacharjee, Sr. Adv.

Mr. SoumyaMajumdar, Adv.

Mr. ShounakMukhopadhyay, Adv.

Mr. KallolSaha, Adv.

Mr. Akash Ghosh, Adv.

Ms. Sweta Bhatta, Adv.

...for the Petitioners.

Mr. Alak Kumar Ghosh, Adv.

Mr. Gopal Chandra Das, Adv.

...for KMC.

Ms. Sukla Das Chandra, Adv.

...for State.

Mr. Sudarsan Roy, Adv.

Mr. Debayan Ghosh, Adv.

Mr. DiptarkaMajumder, Adv.

Ms. Roshmi Ghosh, Adv.

...for Respondent nos. 6 to 14.

Mr. S.K. Poddar, Adv.

...for Respondent nos.15 & 16.

Mr. Biswajit Mukherjee, Adv.

Mrs. Sonali Ghosh Basu, Adv.

Mr. RishavKarnani, Adv.

...for Respondent no.17.

Mr. RaghunathChakraborty, Adv.

Mr. Dwip Raj Basu, Adv.

...for Respondent no.18.

The Court:- The petitioners have preferred the present writ petition, wherein he seeks to challenge the legality and validity of the order dated 4th December, 2024, and the consequent letter dated 16th December, 2024. The aforementioned impugned order dated 4th December, 2024, passed by the competent municipal authority in exercise of its power under Section 416 (5) of the Kolkata Municipal Corporation Act, 1980.

The Petitioner in the present case is challenging the demolition order passed by the Respondent Municipality under Section 416(5) of the Kolkata Municipal Corporation Act, 1980.

Section 416 (6) of the Kolkata Municipal Corporation Act, 1980, provides an express statutory remedy to any person aggrieved by an order passed under, inter alia, Section 416(5) of the Act. The said appellate remedy lies before the Municipal Building Tribunal, a specialised quasi-judicial forum constituted for the adjudication of disputes arising in relation to municipal construction activities, building regulations, and orders pertaining to demolition or sealing of structures

The provision under Section 416 (6) reads as follows:

“Any person aggrieved by an order of the Municipal Corporation under sub-section (5) may, within thirty days from the date of the order, prefer an appeal against the order to the Municipal Building Tribunal appointed under Section 415.”

Thus, the impugned order is evidently one against which a statutory appeal lies before the Municipal Building Tribunal. This Court is, therefore, of the considered view that the present writ petition is not maintainable at

this stage, in light of the existence of an efficacious and alternative statutory remedy, expressly provided under the governing municipal legislation.

It is well-settled in law that the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India is not to be invoked where an alternative statutory remedy exists, save and except in cases where such remedy is shown to be illusory or inefficacious, or where there is a gross violation of the principles of natural justice, or where the impugned action suffers from a patent lack of jurisdiction. In the present case, no such exceptional circumstance has been demonstrated so as to warrant interference under Article 226.

Consequently, this Court is not inclined to exercise its discretionary jurisdiction under Article 226 of the Constitution. The petitioner is granted liberty to avail of the appellate remedy provided under Section 415 of the Kolkata Municipal Corporation Act, 1980, before the Learned Municipal Building Tribunal. Accordingly, without expressing any opinion on the merits of the case, and in view of the above direction, the present writ petition stands disposed of.

The connected application being GA/1/2025, also stands disposed of.

Interim order, if any, stands vacated.

(GAURANG KANTH, J.)