

S/L 07
06.02.2026
Court No.04
B.K.N

F.M.A. 260 of 2025

**Imran Khan
Vs.
Kolkata Municipal Corporation & Ors.**

*Mr. Tarique Quasimuddin,
Mrs. Zainab Tanur*

...for the Appellant.

*Mr. Srijon Nayek,
Mr. S. K. Debnath,
Ms. Rituparna Maitra*

...for the K.M.C.

Ms. Somoshree Saha

...for the Respondent No. 8.

1. Heard the learned advocate for the writ petitioner/appellant and the learned advocate for the respondents.
2. The petitioner's writ application was rejected by an order dated 03.01.2025 passed in W.P.A. 15098 of 2024. The prayer made in the writ petition was for issuance of a direction to demolish the construction on a premises no. 43 Kustia Masjid Bari Lane, P.S. Tiljala, Kolkata-700039. The Writ Court has dismissed the writ petition. Before dismissing the writ petition, the respondent Corporation submitted a report before the Writ Court, extract of which has been quoted in the Writ Court order which reads:

"With reference to the above mentioned case matter, captioned premises has been inspected by this department and during inspection it is found that there exist a four storied residential building and no ongoing construction has been found at the site during the inspection. Establishment section of this department has been asked to provide legality of the structure

situat6ed at the premises mentioned above but after prolonged search they could not produce any documents/sanction plan. However, From the portal copy of inspection Book for Qtr-03/06-07 it is known that there exist a four storied building since 2006”

3. In view of such circumstance, the Hon’ble Single Judge found that the petitioner was having no direct interest or concern with the property in question. Therefore, the Writ Court refused to exercise jurisdiction in favour of the writ petitioner to issue a direction for demolition of the structure in question. The Writ Court also took notice of the fact that since the structure was existing since 2006, there was no scope for the Writ Court to pass any such order. It is this order which has been put to challenge in the present appeal.
4. The learned advocate representing the writ petitioner/appellant has submitted that the order of the Hon’ble Single Judge is not sustainable. He submits that the concept of locus in a writ proceedings has gone a sea change over the years. The pedantic hyper technical approach taken by the Hon’ble Single Judge is, therefore, unsustainable. Once the petitioner pointed out a illegality in a structure it was incumbent upon the Writ Court to exercise jurisdiction for demolition of the same.
5. In support of his contentions he has relied upon decisions of the Apex Court in the case of ***K. Ramadas Shenoy –Vs.- Chief Officers, Town Municipal Council, Udipi and Others*** reported in ***(1974) 2 SCC 506, Ghulam Qadir –Vs.- Special Tribunal***

and Others reported in **(2002) 1 SCC 33**, ***Dipak Kumar Mukherjee –Vs.- Kolkata Municipal Corporation and Others*** reported in **(2013) 5 SCC 336**, ***K.B. Ramachandra Raje URS (dead) by Legal Representatives –Vs.- State of Karnataka and Others*** reported in **(2016) 3 SCC 422** and a very recent judgment in the case of ***Kaniz Ahmed –Vs.- Sabuddin and Others*** reported in **2025 SCC OnLine SC 995**.

6. The decision in the case of ***K. Ramadas Shenoy*** (*supra*) relied upon by the writ petitioner was rendered in a circumstance where the application of the applicant before the Supreme Court, seeking permission for cinema theatre under the provision of the town planning scheme was rejected. The carrying on of the activity of the cinema hall, therefore, was found to be illegal and unsustainable. Thus, there was material on record to show that the impeached resolution sanctioning plan for conversion of building into cinema theatre was in violation of the town planning scheme.
7. Insofar as decision in the case of ***K. B. Ramachandra Raje URS (dead) by Legal Representatives*** (*supra*) is concerned, we find that the said case also has no application to the facts and circumstances of the present case. The issue of delay which is sought to be overcome by relying on this judgment is not relevant to the present case. The Writ Court did not hold the writ petition to be barred by delay and laches but took

notice of the fact that the structure had been existing on the lands in question since 2006-2007. It is under such circumstance that the Writ Court was of the view that without there being any finding of any statutory authority regarding illegality of such structure and since the structure was showing in the records of the Corporation since 2006-2007 there was no scope for a Writ Court to issue a direction for demolition of the structure as prayed for by the writ petitioner; who as per records also has no direct interest or any concern with the building in question. No specific prejudice was made out in the writ petition.

8. Insofar as decision in the case of ***Dipak Kumar Mukherjee*** (*supra*) is concerned, we find that the same also has no application to the facts and circumstances of the present case. In this judgment there was a report submitted by the Deputy Chief Engineer (Building) to the Director General (Building-II) for demolition of the unauthorized construction being the structure in question. We once again reiterate that till date there is no finding of the any statutory authority that the building in question is an illegal structure requiring demolition.
9. Insofar as decision in the case of ***Ghulam Qadir*** (*supra*) is concerned, the petitioner's reliance placed thereupon is equally misplaced. The case therein arises out of a direct dispute with respect to an evacuated property between the parties therein. The case has no

application to the facts and circumstances of the present case, where the petitioner has not shown any direct or indirect interest in the building in question.

10. Insofar as decision in the case of ***Kaniz Ahmed*** (*supra*) is concerned, the same is equally inapplicable in as much as the same arises out of a Public Interest Litigation. The petitioner did not invoke the Public Interest Litigation jurisdiction.

11. For the above noted reasons and in view of consideration above, we find no infirmity in the decision of the Hon'ble Single Judge. The appeal is dismissed.

12. Urgent Photostat Certified copy of this order, if applied for, be supplied to the parties upon compliance with all necessary formalities.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)