

Form No.J(2)

**IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE**

Present :

**The Hon'ble Justice Raja Basu Chowdhury**

**WPA 5003 of 2025  
Sushila Golchha & Anr.  
Versus  
KMC & Ors.**

|                          |   |                                                                        |
|--------------------------|---|------------------------------------------------------------------------|
| For the petitioners      | : | Mr. Shounak Mokhapadhyay<br>Ms. Sananda Ganguli                        |
| For the KMC              | : | Mr. Alope Kr. Ghosh<br>Mr. Sandipan Banerjee<br>Ms. Tamashree Dasgupta |
| For the State            | : | Mr. Sudipto Panda<br>Ms. Ananya Neogi                                  |
| For the respondent no.8: | : | Mr. Srijib Chakraborty<br>Ms. Rupsa Sreemani                           |

Heard on : 18.03.2026

**Judgment on : 18.03.2026**

**Raja Basu Chowdhury, J (Oral):**

1. The present writ petition has been filed, inter alia, praying for a direction upon the respondent Nos. 1 to 5 to act in accordance with law and arrest the illegal and unauthorized construction carried out at premises No. 240B AJC Bose Road, Kolkata at the instance of the private respondents.

2. The matter has a checkered history. Previously in respect of the self-same premises, the municipal authorities had taken steps and had issued an order under Section 400(8) of the Kolkata Municipal Corporation Act, 1980 (hereinafter referred to as the said Act) dated 27<sup>th</sup> November, 2024.
3. Challenging the aforesaid order, a writ petition was filed by the respondent No. 8 which was registered as WPA 1368 of 2025. By an order dated 21<sup>st</sup> May, 2025, the co-ordinate Bench of this Court finding no infirmity with the order impugned in the writ petition directed the corporation to proceed in accordance with law and remove the unauthorized construction which has been carried out in violation of the sanction building plan. Although, an appeal was preferred by the respondent No. 8 which was registered as MAT 800 of 2025, the same came to be dismissed by an order dated 18<sup>th</sup> June, 2025. The respondent No. 8 did not stop there. The respondent No. 8 proceeded before the Hon'ble Supreme Court in a petition for Special Leave to Appeal (C) No 17291 of 2025. By order dated 2<sup>nd</sup> July, 2025, the Special Leave Petition was also dismissed.
4. Mr. Chakraborty, learned advocate representing the respondent No. 8 by placing before this Court a communication dated 4<sup>th</sup> July, 2025 would submit that the respondent No. 8 has removed the portion which was directed to be demolished in terms of the order passed under Section 400(8) of the said Act and has intimated the factum of

such removal to the office of the Building Department, KMC on 4<sup>th</sup> July, 2025.

5. Record would, however, reveal that the petitioners who are occupants of the ground floor of the said premises and carry out garment and clothing business thereat have also suffered at the hands of respondent No. 8. The window of the petitioners which opens onto an open space have been partly covered up by constructing a brick wall in a manner that the aforesaid windows cannot be opened. The petitioners would complaint that despite making repeated complaints, the municipal authorities had not taken any steps.
6. Incidentally, at this stage, Mr. Chakraborty learned advocate representing the respondent No. 8 has placed before this Court an order dated 21<sup>st</sup> December, 2024 passed by the Special Officer Building under Section 400(1) of the said Act, and would submit that the municipal authorities taking note of the aforesaid illegal construction at the above premises had already passed an order of demolition. He would say that his client instead of demolishing the portion, has exercised its statutory rights of filing an appeal and an appeal before the building tribunal is pending. Consequentially this Court should refrain from taking any further steps. According to the information slip placed before this Court, it would transpire that the next date of hearing is fixed on 9<sup>th</sup> July, 2026.

7. Mr. Banerjee, learned advocate appears for the municipal authorities and would submit that there is no stay in connection with the appeal filed by the respondent no.8.
8. Mr. Mukhopadhyay, learned advocate representing the petitioners would, however, submit that the petitioners had never been taken into confidence by the municipal authorities. The aforesaid order has also not been intimated to the petitioners though, the petitioners have made the complaint and are persons effected. According to him, on one hand, the petitioners' windows have been partially blocked by carrying out construction work and on the other, the private respondent no.8 has been holding out that since an appeal is pending, this Court should keep its eye shut in the matter.
9. Having heard the learned advocate for the parties, and the materials on records, I find that although, there is no stay order preventing the municipal authorities from enforcing its order, the municipal authorities have failed to provide for the minimum protection that a citizen deserves. Prima facie, it would transpire that the respondent No. 8 is a habitual offender and had not bothered to adhere to the law of the land. Already an order has been passed by the municipal authorities under Section 400(8). The respondent No. 8 had dragged the matter up to the Hon'ble Supreme Court and would ultimately claim that the said portion has been voluntarily demolished. The municipal authorities are, however, silent in this regard and have not filed any documents before this Court to claim that the order passed

under Section 400(8) of the said Act dated 27<sup>th</sup> November, 2024 has been complied with. This Court is also surprised to say the least on the submission made by the advocate for the respondent no.8 that since the next date of hearing before the Tribunal is fixed sometimes in July, 2026, this Court should stay its hand in the matter.

10. There is another aspect of the matter. The petitioners' complaint with regard to illegal closure of its windows by way of complaint dated 2<sup>nd</sup> December, 2024 is unrelated with the order dated 21<sup>st</sup> December, 2024 passed by the Special Officer (Building) which has been carried in appeal by the respondent no.8 before the building tribunal as the same pertains to the construction of Tin shed structure with Brick wall covering rear open space of the above premises. At this stage, Mr. Chakraborty, learned representing the respondent No. 8 would acknowledge that the order under Section 400(1) of the said Act dated 21<sup>st</sup> December, 2024 was not at the instance of the petitioners and for reasons as above, the petitioners were not taken into confidence and the said order and the appeal were not communicated to the petitioners. It is therefore apparent that the closure of the petitioners' windows, as would appear from the photographs annexed to the petition, is a further brazen act which has been carried out, having no regard to the rule of law. It is this illegal construction that the respondent no.8 is trying to defend and resist by holding out that an appeal is pending.

11. Having regard to the peculiar facts at hand and since, the respondent No. 8 has only filed an appeal without taking appropriate steps and admittedly there appears to be no order of stay, I am of the view the aforesaid should not deter the municipal authorities from taking appropriate steps at least for removal of the obstruction created to the petitioners' windows which have been illegally sealed by carrying out construction work at the instance of the private respondents.
12. Accordingly, I direct the municipal authorities to take immediately and appropriate steps in accordance with law, in the matter so as to ensure that the windows which have been blocked are provided free opening access. It is expected that the process for removal of the obstruction shall be completed within four weeks from the date of communication of this order.
13. At this stage, Mr. Chakraborty learned advocate representing the respondent No. 8 prays for stay of the operation of this order, such prayer is considered and refused.
14. Since, nothing further survives to be decided the writ petition accordingly, stands disposed of.

Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

**(Raja Basu Chowdhury, J.)**