

11.03.2026
Item No. M/L/69
Ct. No.3
dc.

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

W.P.A. 5715 of 2025

**Sri Pratap Bhanu Singh
versus
The Kolkata Municipal Corporation & Ors.**

Mr. Soumya Ray,
Ms. Anwesha Saha,
Mr. Suman Banerjee,
Mr. Pramit Panda,
Mr. Shameek Chakraborty,
Ms. Ruxmini Basu Roy ... For the Petitioner.

Mr. Sandipan Banerjee,
Mrs. Suranjana De Sarkar ... For the KMC.

Mr. Rajendra Chaturvedi,
Ms. Sucheta Banerjee ... For the State.

1. Affidavit-of-service filed in Court today is taken on record.
2. Alleging illegal construction at Premises No. 44, P. N. Mitra Brick Field Road, Ward No. 116, Borough XIII and the failure on the part of the Municipal authorities to take steps, the instant writ petition has been filed.
3. Mr. Banerjee, learned advocate appearing for the KMC, has filed a report duly countersigned amongst others by Executive Engineer (C)/Bldg./Borough XIII & XIV, dated 21st March, 2025 and would submit that on the basis of the complaint, lodged by the petitioner, a departmental inspection was carried out. The inspection revealed that there exists an old and fully occupied three storied residential premises

at the locale. The temporary shed/structure at the ground floor on the portion of the mandatory open space is used by one Hemant Rajak i.e. owner of the ground floor. The building plan is dated 31st March, 1967 issued by South Suburban Municipality and that no recent or new construction has been noted. The report also records that a stop work notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 has been issued.

4. Having regard to the disclosure made in the report, and upon hearing the advocates for the parties, and considering the materials on record, I am of the view that there is no scope to entertain the present writ petition. Admittedly, in this case, it may be noted that the building in question is an old building which has been constructed in accordance with the building plan of 1967. The Municipality also could not identify whether the temporary construction on the mandatory open space was a recent construction. Having regard thereto, there is no scope to pass any order in the present petition especially when the construction is temporary and is not a recent event.
5. The above order has been passed since the Municipal authorities cannot be permitted to proceed in respect of works which are

approximately more than 50 years old. This apart, the grievance of the petitioner is with regard to locking the temporary shed so as to prevent the petitioner from using the same, as would be apparent from the undated complaint appearing at page 28 of the writ petition. The above also would demonstrate that the petitioner is trying to enforce its private rights against the private respondents by invoking the extraordinary jurisdiction of this Court, which is also not permissible.

6. With the above observations and/or directions, the writ petition stands disposed of.

(Raja Basu Chowdhury, J.)