

Form No.J(2)

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

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 5776 of 2025

**Rafikul Islam Sardar & Anr.
Versus
The State of West Bengal & Ors.**

For the petitioner : Mr. Supratim Dhar, Sr. Adv.
Mr. Keshab Chandra Das
Mr. Shamayem Fasih
Ms. T.Mukherjee

For the State : Mr. Sukanta Ghosh
Mr. Argha Chatterjee

For the KMDA : Mr. Satyajit Talukdar
Mr. Arindam Chatterjee

For the HMC : Mr. Sandipan Banerjee
Mr. Ankit Sureka

Heard on : 15.06.2026

Judgment on : 15.06.2026

Raja Basu Chowdhury, J (Oral):

1. The petitioners have filed this instant writ petition for a direction upon the respondent nos. 2 to 4 to give development permission for a G+IV storied sanctioned building plan in favour of the petitioners for development of holding no. 18+18/A, Kona Expressway, Ward no. 46, P.S. Jagacha, Howrah – 711111. Particulars of the property have been described more particularly in the petition itself.

2. The matter has a chequered history. Records reveal that the petitioners had previously approached this Court in WP 13918 (W) of 2018 since the competent authority under the NHAI had refused to give access to the petitioners' unacquired portion of the land. In the said writ petition an order was passed on 20th September 2018, inter alia, by directing the competent authority to provide access to the petitioners for the purpose of egress and ingress to the petitioners' unacquired land by observing that a person cannot be deprived of an access to the landlocked land because of an acquisition proceeding. Despite the aforesaid order, since the above direction was not complied with, a contempt application was moved. The Coordinate Bench of this Court by order 3rd February 2023 was, inter alia, pleased to pass the following order:-

“However, the affidavit of compliance filed by the alleged contemnor nos. 3, 4 and 5 would reveal that the access is provided at the pretence of providing an access, which cannot be said to be an actual access by removing a small barrier where a car or ambulance can not enter. Even in case of an emergency the access from the highway to the respective plot in question cannot be utilized and, therefore, it appears from the conduct of the alleged contemnor nos. 3, 4 and 5 that in order to avoid the rigor of the provisions of the Contempt of Courts Act they pretend to have complied the order which in reality cannot be perceived so.

However, the learned Advocate appearing for the aforesaid alleged contemnors submits that necessary steps shall be taken.

Let this matter be listed after two weeks, when the said alleged contemnor nos. 3, 4 and 5 shall apprise the Court as to the steps taken in the meantime.

So far as the role of the alleged contemnor nos. 1 and 2 are concerned, this Court does not find that they have consciously or knowingly violated the order of the Court. Therefore, let their names be expunged from the category of the alleged contemnors in the contempt application.”

3. Mr. Dhar, learned Senior Advocate appearing for the petitioners would submit that the aforesaid direction for providing access has since been complied with. The petitioners have now faced with a new difficulty. Although, the petitioners

are interested to develop the property by constructing a G+IV residential building and though, the application has been filed before the municipal authorities sometimes in the year 2022 and the fees thereof has also been paid on 5th April 2022, such application is yet to be disposed of, inasmuch as the KMDA which is a development authority within the meaning of Town & Country (Planning & Development) Act, 1979 (hereinafter referred to as the “said Act”) is yet to favour the petitioners with the permission for development as is required under Section 46 of the said Act.

4. The municipality (HMC) is represented in Court and has filed a report dated 10th June 2026. The same is retained with the record. From the aforesaid report it would transpire that at present there is an online application system for Single Window Clearance through the OBPAS platform integrating both KMDA and HMC which has been operational since December 2025. Applications are submitted online through authorized consultants along with the requisite drawings, supporting documents, and statutory NOCs. The report also records that the HMC is unable to process or grant building sanction until the requisite development permission is issued by KMDA through the prescribed online system.
5. The KMDA is represented. Mr. Talukdar, learned advocate appearing for the KMDA by drawing attention of this Court to the report filed the KMDA in Court today dated 12th June 2026 submits that the particular OBPAS portal though as claimed, has been made operational at the HMC but at present in KMDA there is no such online system for issuance of development permission within Special Zone for HMC area and as such till such time such online platform is made operational, the KMDA is unable to process the same.

6. Having heard the learned advocates appearing for the parties and noting that the application for obtaining sanctioned building plan has been made in the year 2022, which is much prior to the date of operation the aforesaid OBPAS portal which on the basis of the disclosure made by HMC, has been made operational only in December 2025, I am of the view that the aforesaid online procedure cannot stand in the way of the authorities in considering the petitioners' case. This apart, the stand taken by the HMC as also the KMDA that without making an online portal i.e., the OBPAS portal operational at their end, no permission can be granted, appears to be based on complete non application of mind.
7. As would appear from the aforesaid report, the online application system is meant for Single Window Clearance. The same has obviously been introduced with the object of ease of access / business and for ensuring early and timely consideration of the applications. The non functional online system as would appear from the disclosure made by the KMDA, in my view, cannot stand in the way of the consideration of the petitioners' application. Accordingly, I direct the HMC to forthwith forward the petitioners' application along with all necessary documents and comments to the KMDA in offline mode, unless, the same has already been forwarded. The above process is directed to be completed within 7 working days from date.
8. The KMDA is directed to consider such application for grant of permission within a period of 7 working days from the date of receipt of such application and is directed to intimate the outcome thereof by passing a reasoned order, both to the petitioners and to the HMC immediately thereafter.
9. If the KMDA chooses to grant permission, the HMC shall immediately act on the basis thereof, and shall decide on the proposed plan within one month

thereafter. It is made clear that under no circumstances the entire process of consideration as directed, shall exceed a period of three months from the date of communication of this order.

10. With the above directions and observations, the writ petition is disposed of.

11. All parties shall act on the basis of the server copy of this order duly downloaded from this Court's official website.

(Raja Basu Chowdhury, J.)

**Saswata
A.R. (Court)**