

M/L 42
06.05.2026
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Ct.3.

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 5939 of 2026

Debasis Bandyopadhyay & Anr.
Versus
Kolkata Municipal Corporation & Ors.

Mr. Partha Sarathi Bhattacharyya, Sr. Advocate
Mr. Rajesh Naskar
Mr. Raju Bhattacharyya
... For the petitioners.

Mr. Alak Kumar Ghosh
Mr. Arijit Dey
... For Kolkata Municipal Corporation.

Ms. Rituparna Chatterjee
Mr. Saunak Mukhopadhyay
Ms. Khushboo Choudhury
Mr. Dhruva Balety
... For the respondent no.8

1. Affidavit of service filed in Court is taken on record.
2. On the prayer of Mr. Bhattacharyya, learned senior advocate representing the petitioners, leave is granted to the advocate-on-record of the petitioners to correct the prayer (a) of the writ petition insofar as the date of the order passed by the Special Officer (Building), Kolkata Municipal Corporation, is concerned.
3. Let such correction be carried out in course of the day.
4. The instant writ petition has been filed, inter alia, praying for a direction upon the municipal authorities to in effect, implement the order dated 24th September, 2025

passed by the Special Officer (Building), Kolkata Municipal Corporation.

5. Records would reveal that on the basis of a proceeding initiated by the municipal authorities under Section 400(1) and 416 of the Kolkata Municipal Corporation Act, 1980 (hereinafter referred to as the said Act), in respect of premises no. 58/1, Suren Sarkar Road, Ward-33, Borough-III, a Demolition Case being No. 17-D/III/25-26 was registered.

6. The proceeding culminated in an order dated 24th September, 2025. The relevant portion of the aforesaid order is extracted hereinbelow:

“In view of the serious violation of Rule 117(4) of the KMC Building Rules 2009, I am inclined to pass an order for complete removal of the glass door and to make it completely accessible to all other flat owners of the building at 58/1 Suren Sarkar Road, Ward-33, Borough-III. This order must be executed within a period of 30 days from the date of communication of this order failing which action will be taken by the department”.

7. As would appear from the above, the order in fact only directs removal of the glass door on the open terrace so as to make the same accessible to all other flat owners of the building situate at 58/1 Suren Sarkar Road, Ward-33, Borough-III (in short the said premises). Though the aforesaid order was passed on 24th September, 2025, Mr.

Bhattacharyya, would submit that the said order is yet to be executed. He has also drawn attention of this Court to the notice issued by the Executive Engineer (C)/Buld./Br.III on 30th December, 2025, intimating the persons responsible that steps would be taken by the municipality on 15th January, 2026 for removal of the glass door on the open terrace in accordance with the order passed by the Special Officer (Building) on 24th September, 2025. According to Mr. Bhattacharyya, despite the above notice, the municipal authorities have not yet carried out the above order.

8. Mr. Mukhopadhyay, learned advocate appears on behalf of the respondent no.8. He submits that he is only representing the developer who has nothing to do with the illegal construction. He further submits that the property has been transferred in the year 2017. It is still further submitted that the respondent no.8 is not in any way interfering with common rights and facilities available in the said premises.

9. Mr. Ghosh, learned advocate appears on behalf of the Kolkata Municipal Corporation. He submits that ordinarily, the order passed by the Special Officer (Building) is required to be executed and that steps have already been taken by the municipal authorities to execute the order, however, he is yet to receive any instruction as regards any further progress in furtherance to the notice dated 30th December, 2025.

10. Having heard the learned advocates appearing for the respective parties, though the private respondents excepting the respondent no. 8 remain unrepresented, and noting from the submissions of Mr. Bhattacharyya, learned senior advocate representing the petitioners that the municipal authorities have not taken any further steps despite issuing notice dated 23rd December, 2025, I am of the view since the Special Officer (Building) has already passed the order dated 24th September, 2025 so as to remove the obstruction on the terrace and make the same accessible to the inmates of the aforesaid building, such order ought to have been executed unless, there be any impediment in executing the same.

11. Accordingly, I direct the municipal authorities to forthwith take steps and ensure compliance of the order dated 24th September, 2025 unless there is any impediment.

12. Since, this is a residential complex, it is, made clear that the municipal authorities must issue prior notice before taking steps for implementing the above order. It is expected that the proceeding in this regard must be initiated within four weeks from date.

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

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

(Raja Basu Chowdhury, J.)