

ML 2416
08.05.2026
sayandeep
Ct.3.

WPA 7364 of 2025
With
CAN 1 of 2025

Mr. Bivas Jana
Versus
The State of West Bengal & Ors.

Ms. Jayshree Saha
Mr. Partha Chakraborty
Mr. Disha Shukla
Mr. Alokbonnya Ghosh
Ms. Varsha Shaw
Mr. Swaminath Prasad

..... for the complainant

Mr. N.C. Bihani
Ms. Debangana Dey

..... for the KMC

Mr. Mani Sankar Chattopadhyay
..... for the respondent Nos. 9-14

Mr. Tanmoy Mukherjee
..... for the respondent Nos. 15-16

1. The writ petition has been filed complaining illegal construction at the behest of the respondent Nos. 9 to 18 and the failure on the part of the municipal authorities to take steps on the basis of the complaint made by the petitioner.
2. The private respondent Nos. 9 to 14 are represented. The learned advocate representing the aforesaid respondents would submit that the construction carried out at the premises No. T4/1 Hari Bose Lane, Kolkata, Ward No. 017, P.S. Burtala is with the sanction of the municipal authorities. In support of his aforesaid contention, he has placed before this Court, a sanctioned building plan duly sanctioned by

the municipal authorities which is taken on record.

3. Mr. Bihani, learned senior advocate appears for the municipality. According to him, the petitioner has no locus to maintain the instant writ petition. He, however, would submit that independent of the complaint made by the petitioner, the municipality has carried out an inspection on 11th April, 2026 when it observed that the persons responsible has constructed RCC slab projected from the 1st floor to roof level infringing mandatory open spaces on front and the rear side. Columns are also extended beyond the sanctioned roof level up to a height of 3.0 mtr. The municipality has issued stop work notice under Section 401 of the KMC Act, 1980 and the said fact was also notified to Buotolla P.S. on the same date. Copy of the report dated 7th May, 2026 and the stop work notice dated 11th April, 2026 filed in Court today are taken on record.
4. This apart, there is an application filed at the behest of the private respondent nos. 15 and 16 who claim to be owners of the aforesaid property and contend that they are not in any way associated with the construction on the property rather, it is their case that the private respondent Nos. 9 to 14 are constructing on the aforesaid premises without authority from the above respondents.
5. Having heard the learned advocates appearing for the respective parties though Mr. Bihani would seek to

question the locus of the petitioner to maintain the instant petition, I find that it is the obligation of the municipality to ensure that the construction carried out is on the basis of the sanction issued by the municipality, the same cannot be overlooked. The municipality cannot absolve their responsibility. Admittedly, in this case, it is apparent and clear that the municipality has failed to discharge its duties. Despite being notified by the petitioner, the municipality on its own showing did not take any action though, an independent action has been taken. Since upon going through the report, it is clear that the private respondent Nos. 9 to 14 have acted in deviation of the sanctioned plan, and have constructed columns which is 3 meters or approximately 9 ft. beyond the sanctioned height, and infringed on the mandatory open space, in my view, no further construction should be permitted at this stage. The municipality is directed to forthwith carry out an inspection of the locale. If on the basis of inspection to be carried out by the municipality which should be done upon notice to the parties, the municipality is of the view that there has been further deviations of the sanctioned plan, the municipality must include the deviation in the proceedings already initiated against the private respondent Nos. 9 to 14. Unless, the private respondent Nos. 9 to 14 volunteers to remove the

illegally constructed portion, the proceeding should be brought to a logical conclusion.

6. It is made clear till such time the decision is taken by passing appropriate order and the construction that is being carried out by the private respondent Nos. 9 to 14 becomes complaint with the sanctioned building plan, no further construction should be permitted by the Corporation. The police authorities are directed to ensure the same. It is expected the proceedings shall be completed within a period of 12 weeks from the date of communication of this order.
7. With the above observations and directions, the writ petition is disposed of.
8. In view of the disposal of the writ petition, the connected application being CAN 1 of 2025 is also disposed of.

(Raja Basu Chowdhury, J.)