

AD 03
25.06.2026
sayandeep
Ct.3.

WPA 12901 of 2026

Sunil Halder & anr.
Versus
The KMC & Ors.

Mr. Pantu Deb Roy
Mr. Tapas Kr. Mondal
Mr. Partha Sarathi Basu

... For the petitioners

Mr. Sovan Mukherjee
Ms. Sneha Chatterjee

..... for the State

Mr. Alok Kr. Ghosh
Mr. Arijit Dey

... For the KMC

1. The petition was moved, inter alia, complaining over action on the part of the police authorities whereby the petitioners were directed to remove the highly inflammable materials immediately from the premises No. 37A, James Long Sarani, Nabapally, ward No. 143, Borough-XVI, KMC so that the upcoming demolition work can be carried out. According to the petitioners, since the police authorities cannot independently direct the petitioners to vacate and/or remove their articles from their premises, the writ petition was filed.
2. When the matter was taken up for consideration on 22nd June, 2026, this Court had directed the State to take appropriate instructions concerning the communication dated 8th June, 2026 appearing at page 49 of the writ petition. Today, the State has filed a report and would submit that in furtherance to the notice issued by the Executive Engineer(C), Building

dated 25th May, 2026, the aforesaid notice has been issued.

3. The municipality is represented and has filed a report dated 24th June, 2026. According to such report, this is a case of illegal construction of a water body being filled up. On a complaint in this regard being received an inspection was carried out, and it was observed that a RT.D/H and ABS.D/H structure along with the vacant land was inexistence at the locale. Following the above, a notice under Section 401 of the KMC Act, 1980 was issued against the above mentioned premises and a report had been submitted to higher authority for further order. Following the aforesaid, an order under Section 400(8) of the KMC Act, 1980 was passed which got the concurrence of the member in council vide its meeting dated 14th June, 2024. Following the aforesaid, demolition work has been carried out on 1st July, 2024 to 3rd July, 2024. The report further records that the person responsible has applied for regularization of the existing RT shed structure. Let a copy of the aforesaid report filed in Court be taken on record.

4. Mr. Ghosh, learned advocate has also drawn attention of this Court to an order passed by the Division Bench of this Court in a Public Interest Litigation being WPA(P) 4021 of 2017 dated 16th July, 2017. He submits that this Hon'ble Court having noted the illegally filling up the water body, had directed the

State authorities to furnish particulars as sought for by the KMC. Pursuant to the directions passed by the Division Bench of this Court, the authorities had issued a letter dated 15th June, 2017 to the municipal commissioner, KMC requesting them to prepare and furnish cost estimation so that further steps can be taken towards restoration of the water body. He submits that an application for recalling has been filed by the petitioners seeking recall of the above order which has been registered as CAN 6726 of 2017. Such application is pending consideration before the Division Bench. In the interregnum, since a further complaint was received that the structure has been stacked with the inflammable material, appropriate steps have been taken to ensure removal of such inflammable materials. There is no irregularity in that regard.

5. Mr. Deb Roy, learned advocate for the petitioners has, however, be placing before this Court an order dated 9th June, 2026 passed in connection with the above PIL would submit that the matter is pending before the Division Bench of this Court and is returnable on 7th July, 2026. He submits that till the matter is taken up by the Division Bench, this Court should protect the petitioners.

6. Having heard the learned advocates appearing the respective parties, I am of the view, the petitioners cannot be permitted to indulge themselves in forum

shopping. Since, the petitioners have already approached the Division Bench of this Court, the petitioners cannot seeking for interim relief pending disposal of the proceeding before the Division Bench. It is well settled that interim order can only be passed in aid of final relief. Since now the petitioners do not insist for final relief, no order can be passed in their favour. I may note that although, the writ petition was moved with an innocuous prayer, however, having regard to the disclosure made by the municipal authorities, and since the above issue is pending before the Division Bench where an application for recall at the instance of the petition is pending, in my view it shall not be prudent to entertain the writ petition. The same is accordingly dismissed without any order as to costs.

(Raja Basu Chowdhury, J.)