

08.06.2026
sayandeep
Sl. No. ML 13
Ct. No. 03

WPA 19090 of 2024

Sanjoy Roy Chowdhury
Vs.
The Kolkata Municipal Corporation & ors.

Mr. Prosenjit Mukherjee
Mr. Saptarshi Chakraborty
..... for the petitioner

Mr. Debjit Mukherjee
Ms. Susmita Chatterjee
..... for the KMC

Mr. S.T. Mina
Mr. Pratim Sardar
.... For the private respondent

1. The present writ petition has been filed, inter alia, complaining unauthorized construction at the behest of the private respondent at holding No. 221/1, Postal Park under KMC, Ward No. 112, P.S. Bansdrani, Budge Budge-I, Kolkata 700070. The petitioner had previously moved a writ petition alleging illegal construction which was registered as WPA 10929 of 2023. On contest, such writ petition came to be dismissed on the ground that the dispute between the parties was pending before the Civil Court for adjudication.
2. The petitioner claims that he has since withdrawn the above suit on 6th May, 2024 and has now filed the writ petition alleging illegal construction in the form of deviation of the sanctioned plan by the private respondent.

3. Since then, when the matter came up for hearing on 21st April, 2026, this Court was pleased to pass the following order:

1. *"At the time of call, the petitioner is not represented.*
2. *The municipality has, however, placed before this Court a report dated 28th August, 2024. From the aforesaid report, it would transpire that a building permit had been issued in this case in respect of the premises No. 448, Raynagar, Ward No. 112 under Borough XI on 29th November, 2022 in favour of the respondent No. 7. The building plan was sanctioned on a land having an area of 1 katha 8 chattak equivalent to 100.334 m². As per the boundary declaration as per Rule 61(2) of the KMC Building Rules, though the backside open space of the building shall be deemed to be the face of the building which is farthest from any means of access to the site, however, in the instant case, the municipal commissioner has allowed change of the backside from northern side to southern side. Since, the aforesaid change may have a serious consequence especially as regards the open space required to be retained, I am of the view, the petitioner should be afforded with an opportunity to respond to the aforesaid notice.*
3. *Accordingly, let this matter be listed in the combined monthly list of June, 2026.*
4. *The petitioner shall be at liberty to use an exception to the report filed by the municipality. Let a copy of the report filed in Court today be taken on record.*
5. *The municipality is directed to serve copies of the report on the parties in course of this week."*

4. The petitioner has since filed an exception to the report, let a copy of the exception filed by the petitioner be taken on record. Having regard to the peculiar facts and noting that the municipal Commissioner has allowed the change of the back of the building from the northern side to the southern side which the petitioner claims to be interfering with his legal rights and since such decision of alteration was made by the

Commissioner without hearing the petitioner, as such without going into the controversy as to whether the same actually interferes with the rights of the petitioner, I relegate this matter to the municipal Commissioner for a fresh decision in the matter. The municipal commissioner or his delegate shall decide the same in accordance with law by giving an opportunity of hearing to the parties. It is, however, made clear that the officer who had earlier decided the cause shall not decide the same.

5. Since no affidavit-in-opposition has been called for, the allegations made in the petition are deemed not to have been admitted by the respondents.
6. It is expected that the proceedings in this regard shall be concluded by the municipal commissioner or his delegate within a period of 4 weeks from the date of communication of this order.
7. Pending such decision, the municipality shall ensure that no further construction takes place at the locale.
8. With the above observations and directions, the writ petition is disposed of.

(Raja Basu Chowdhury, J.)