M/L 17
05.10.2026
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Ct.3.

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 23409 of 2026

Banarasi Prasad Gupta
Versus
The Kolkata Municipal Corporation & Ors.

Mr. Kajal Ray
... For the petitioner.

Mrs. Koyeli Bhattacharyya
Mr. Dipankar Ghosh
... For Kolkata Municipal Corporation.

1. The present writ petition has been filed, inter alia, praying for a direction upon the respondents to ensure that the unauthorized construction made by the private respondents at Premises No. 16, Beniapukur Road, Kolkata – 700014, be demolished.

2. According to the learned advocate for the petitioner, in terms of the order dated 25th February, 2008 passed in WP No. 2494 (W) of 2008, the learned Registrar General had filed an FIR which was tried as G.R. Case No. 960 of 2008 by the Court of the learned Metropolitan Magistrate, 5th Court, Calcutta. The proceedings were disposed of by a judgment and order dated 29th December, 2023, inter alia, holding that it is proved beyond the shadow of reasonable doubt that pursuant to the conspiracy, accused no.6 pretended himself to be Dilip Biswas before the Registrar of Assurances, Kolkata on 30th January, 2004, put his

photograph, signed his name as Dilip Biswas, and accused no.5 identified accused no.6 as Dilip Biswas before the Registrar of Assurances, Kolkata to register General Power of Attorney dated 30th January, 2004, which he would not have done had he knew that accused no.6 is not actually Dilip Biswas. Hence accused nos. 5 and 6 have committed the offence under Secton 419 /120B of the Indian Penal Code. It is submitted that it is now been held that Dilip Biswas put his signature on the power of attorney and the sanctioned building plan was obtained by fraud.

3. In this context I find that the petitioner was inducted as a lessee in respect of the back portion of premises no. 16 Benia Pukur Road. This portion was, however, separated from the remaining portion of the mother premises and was renumbered as 16/1 Hare Krishna Konar Road and the remaining portion of the mother premises came to be known as 16 Hare Krishna Konar Road. Subsequently, a sanction building plan was issued in respect of 16 Hare Krishna Konar Road, the building was constructed. The petitioner had previously approached this Court in W.P. 24893 (W) of 2006 with a prayer for direction upon the municipal authority to revoke this sanctioned building plan dated 4th August, 2004. Such prayer was not allowed. The said writ petition was disposed of upon directing the hearing officer to hear the respective parties and pass a reasoned order. The Special Officer in turn noting that illegal

construction had taken place in certain portions marked as 'A', 'B', 'C' in the demolition sketch observed that the demolition was required to be effected after final disposal of the civil suit or any other further direction of the learned Court. It was, however, further observed by the Special Officer that no demolition order was required to be passed in the remaining unauthorized construction subject to the person responsible complying with the conditions, namely obtaining a certificate from the empanelled structural engineer certifying that the structural stability and the foundation of the impugned constructions were safe and sound and the materials used as well as workmanship had been made as per the latest edition of National Building Code of India. In the wake of such order being issued, sanction fees for regularization of the unauthorized portions were paid. Though the person responsible complied with the aforesaid direction and paid sanction fee the Executive Engineer (C) Building Department of Kolkata Municipal Corporation once again directed the demolition of the portion marked 'A', 'B', 'C' in the demolition sketch plan.

4. A further writ petition being WP 14821(W) of 2007 was filed. The said writ petition was disposed of by observing that the order of the Executive Engineer was not in conformity with the order passed by the Special Officer (Building). Accordingly, the order passed by the Executive Engineer was quashed with the observation that the parties to the proceedings including the

Corporation would abide by the decision of the Special Officer (Building) until the order was varied and/or modified in appeal by the Building Tribunal in B.T. Appeal No. 45 of 2007. Since then, from time to time various proceedings have been initiated including further stop work notice issued by the municipality. Ultimately, this Court by the order dated 30th January, 2009 in WP 13579 (W) of 2008 was inter alia pleased to direct the municipality to issue occupancy certificate.

5. Mrs. Bhattacharyya, learned advocate representing Kolkata Municipal Corporation by filing a report dated 23rd September, 2026 would submit that in terms of the aforesaid direction, partial completion certificate had been issued on 20th January, 2014 vide order dated 13th October, 2009. At present the premise is fully occupied.

6. At this stage, the petitioner once again approached this Court on the ground that the criminal proceedings has come to a logical conclusion by the judgment dated 19th July, 2025. The petitioner is seeking to reopen the issue of grant of sanction plan in respect of its adjacent premises wherein the petitioner does not have any interest. The challenge is also not with regard to unauthorized construction or grant of plan in deviation of the building rules, rather the same is more of title dispute.

7. In the peculiar facts as noted hereinabove, I am of the view there is no scope to reopen the settled issue

which has long been decided by the order passed by this Court as a valuable right on the basis of grant of completion certificate has accrued. All occupiers are not parties to this proceedings. This apart, there is no prayer in the writ petition for recalling of the completion certificate and the order passed by this Court.

8. In the light of the above, this Court is not inclined to entertain the writ petition and the same is accordingly dismissed.

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.)