

18. 24.03.2026.
Court No.03.
(Pritam)

WPA 23293 of 2025.

Nirmala Agarwal @ Nirmala Devi Agarwal & Anr.

-Vs.-

Kolkata Municipal Corporation & Ors.

Mr. Nilanjan Bhattacharya, Sr. Adv,
Mr. Rohit Hazra.

.....for the petitioners.

Mr. Vimal Kumar Shahi, Ld. AGP. (VC),
Ms. Susmita Chatterjee.

.....for the KMC.

Mr. Somraj Dhar,
Mr. Dipankar Ghosh.

.....for the respondent nos.6.

Mr. Kallol Basu,
Mr. Bratin Kumar Dey,
Ms. Piyali Sengupta.

.....for the respondent nos.7.

1. Affidavit-of-service filed in Court today is taken on record.
2. The instant writ petition has been filed, *inter alia*, praying for direction upon the respondent nos.1 to 5 to cancel the reconstruction/sanctioned plan dated 4th March, 2025 issued by the KMC. Records reveal that on 3rd February, 2026 when the matter came up for consideration, the Court was pleased to passed the following order;

“The present writ petition has been filed, inter alia, praying for a direction upon the municipal authorities to, inter alia, cancel the reconstruction/sanctioned being plan dated 4th March, 2025 issued by the municipality. The petitioners claim to be a tenant in respect of premises No. 129/1 Mahatma Gandhi Road(previously 129/7 Mahatma Gandhi Road), Kolkata. According to the petitioners, they are tenants in respect of the above property for the last 69 years. Mr. Bhattacharya, learned senior advocate appearing in support of the writ petition would submit that there is a subsisting decree passed in favour of the petitioners declaring that the petitioners are tenants in respect of the schedule property and the defendants being their landlords have been permanently restrained from dispossessing the plaintiff from the schedule property, except with due process of law.

2. Mr. Bose, learned advocate representing the private respondent claims to be the owner in respect of premises No. 129/1 Mahatma Gandhi Road, Kolkata. In response to a query from the Court, he would submit that although a decree appears to have been passed by the Court of the learned 12th Bench, City Civil Court at Kolkata in T.S No. 912 of 2015, the private respondent was not aware with regard to the same until purchase of the aforesaid property in the year 2022. According to him, since the property required extensive repair and it was not possible to carry out appropriate repair, a notice under Section 411 of the KMC Act, 1980 had been issued and served by the municipality. Subsequently, the building itself has been demolished. Mr. Bose disputes the extent of tenancy of the petitioners.

3. The municipal authority is represented. It is submitted on behalf of the municipal authorities that the sanction in respect of the above building is under the provisions of Sections 3(2)(a), 3(2)(e) and 3(2)(l) of the KMC Building Rules, 2009 and under Section 410 of the KMC Act.

4. Having heard the learned advocates appearing for the respective parties and since it is submitted by Mr. Bhattacharyya, learned senior advocate representing the

petitioners that an entire new construction is coming up, I am of the view that the Executive Engineer of the concerned Borough must carry out an inspection of the premises in question and file a detailed report before this Court along with coloured photographs taken during the inspection, when the matter is taken up next.

5. List this matter for further consideration on 11th March, 2026.”

3. As would appear from the above though by an order dated 3rd February, 2026, since this Court had directed the concerned Executive Engineer to file a detailed report on the basis of inspection conducted by him, but on the returnable date, when the matter came up for hearing on 11th March, 2026, though the report dated 9th March, 2026 was filed, such report did not indicate whether any such inspection had been carried out by the Executive Engineer (C) (Building) Borough – V. Accordingly, this Court by order dated 11th March, 2026 had directed the Executive Engineer (C) (Building) to file an affidavit and explain why the order dated 3rd February, 2026 has not been complied with. It was further provided that the affidavit along with the report must be filed before this Court when the matter is taken up next.
4. Today, the learned advocate representing the KMC has filed an affidavit affirmed by the respondent no.5. From the aforesaid affidavit, it would transpire that a construction plan was sanctioned on 26th May, 2025 after compliance of all formalities. Subsequently,

another revised reconstruction plan was sanctioned on 4th March, 2025 by the competent authority. As per the above report, the construction carried out at the premises in question is in accordance with the latest sanctioned building plan.

5. Mr. Basu, learned advocate representing the respondent no.7 would submit that respondent no.7 has never disobeyed any order passed by any competent court of law. Since the Civil Court's order is subsisting, the respondents shall adhere to the same.
6. Further noting from the submissions made by the parties and the materials on record, that the construction is yet to be completed, as such at this stage, I am of the view that there is no scope to interfere with the same.
7. The petitioners have, in fact, no cause of action so as to contend that the terms of the sanctioned building plan has been violated or any construction is *de hors* the sanctioned building plan.
8. Although, Mr. Bhattacharya, learned senior advocate representing the petitioners would submit that appropriate clarifications should be provided in this order so as, not take away the right of the petitioners to approach this Court in future, I am of the view in the given facts that there is no necessity to grant such leave.

9. With the aforesaid observations and directions, the instant writ petition is disposed of.
10. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all formalities.

(Raja Basu Chowdhury, J.)