

Form No.J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present :

The Hon'ble Justice Raja Basu Chowdhury

**WPA 29304 of 2025
With
CAN 1 of 2026
With
WPA 778 of 2026**

**Sri Ranjit Kumar Ghosh
Versus**

Howrah Municipal Corporation & ors.

For the petitioners : Mr. Biswajit Mukherjee, adv.
Mr. Sumitava Chgakraborty, adv.
Ms. Bratati Pramanick, adv.

For the Municipality : Mr. Sandipan Banerjee, adv.
Mr. Ankit Sureka, adv.

For the respondent no.2 : Ms. Pampa Dey (Dhabal), adv.

Heard on : 14.01.2026.

Judgment on : 14.01.2026

Raja Basu Chowdhury, J (Oral):

1. The present writ petition has been filed in effect seeking an order so as to restrain the municipal corporation from raising any objection and/or insist for any sanction plan for construction of a boundary wall at 34 Dharmatala Lane, P.O.& P.S.- Shibpur, Howrah, 711102 in ward No. 34 Borough-V. The writ petition is,

however, opposed by an intervener, namely, Badri Narayan Yadav and an application for addition of party being CAN 1 of 2026 has been filed. It is contended by the intervener that the intervener is a thika tenant in respect of premises No. 34 and 34/1 Dharmatala Lane, Howrah and in support thereof, TR forms have been disclosed. The intervener would further contend that the intervener is at present carrying on a parking business under the name and style of M/s Joy Ma Kali parking and the HMC has authorized the aforesaid business by issuing a certificate of enlistment for the year 2025-2026. The relevant certificate of enlistment has also been disclosed.

2. Ms. Dey (Dhabal) learned advocate for the intervener also submits that the intervener has also filed a title suit before the Court of 2nd Civil Judge(Junior Division) at Howrah being title suit No. 1486 of 2025 against the co-sharers of the aforesaid property. The suit is for permanent injunction. According to her, there is subsisting order of injunction restraining the defendants from making any unauthorized construction over the schedule property and/or creating any third party interest in the property. According to Ms. Dey (Dhabal), the interim order passed on 26th September, 2025 has later been extended.
3. Mr. Mukherjee, learned advocate for the petitioner, on the other hand, at the very outset has drawn the attention of this Court to the schedule "A" of the plaint relied on by the intervener and

would contend that the schedule "A" of the plaint does not involve the property in question. He submits that the intervener has also not been able to establish that the intervener is a thika tenant at least no order under Section 5(3) of the West Bengal Thika Tenancy Acquisition and Regulation Act, 2001 has been disclosed. Since the order of injunction does not stand in the way of the petitioner from constructing boundary wall, this Court should pass appropriate relief to the petitioner so that the municipal authorities do not interfere in the construction of the boundary wall.

4. Mr. Banerjee learned advocate representing the municipality on the other hand has submitted that the municipality never insists for any permission or sanction plan for construction of any boundary wall up to the height of 2.87 meters. According to him, if the petitioner is otherwise entitled to construct a boundary wall, the petitioner can do so for which no specific permission is necessary.
5. Having heard the learned advocates appearing for the respective parties, I find that the intervener may have some interest in the property, as it is claimed that a business is run from the property in question which is also authorized by the HMC. Accordingly, the application filed by the intervener for addition of party is allowed. The intervener is added as an added respondent in the present cause. The department is directed to carry out this

order. The application being CAN 1 of 2026 is accordingly disposed of.

6. Ms. Dhabal, learned advocate representing the intervener has accepted service of the writ petition. Though she has submitted that there is an order of injunction restraining the petitioner from carrying out any construction, I find from the schedule of the plaint as disclosed in the application for addition of party that the same pertain to premises No. 34/2 Dharmatala Lane and not premises No. 34 Dharmatala Lane consequentially the order of injunction may not apply in the instant case. However, at the same time, it may be noted that the TR challan pertains to both premises No. 34 and 34/1 Dharmatal Lane.
7. Be that as it may, nothing has been placed before this Court to demonstrate that any order has been passed by the Thika controller declaring the property to be a thika land. At the same time, this Court cannot ignore the fact that the HMC has already issued a certificate of enlistment in favour of the added respondent to carry on business in respect of holding No. 34 Dharmatala Lane. Though Mr. Mukherjee would contend that the petitioner has applied for cancelling the certificate of enlistment, he is candid enough in submitting that the cancellation has till date not taken place as the municipality is sitting over the application, for which the petitioner has already approached this Court in WPA 778 of 2026.

8. Having regard to such disclosure made in Court, I am of the view, at this stage, there is no scope for this Court to allow this petition since, the certificate of enlistment interferes with the rights of the petitioner to construct on the property in question. This order shall, however, not stand in the way of the petitioner to take recourse to the aforesaid certificate of enlistment in accordance with law, if so advised.

In Re: WPA 778 of 2026

9. Since Mr. Mukherjee, would submit that the writ petition is already pending for a direction upon the municipal authorities to in effect decide on the petitioner's application for cancellation of the certificate of enlistment, this Court had directed such matter to be listed and has accordingly taken up the same. Since, the above matters are connected and since, Mr. Banerjee learned advocate is appearing for the municipality in WPA 29304 of 2025, let a copy of the writ petition being WPA 778 of 2026 be also made over to Mr. Banerjee and let the appointment of Mr. Banerjee be regularized.
10. Insofar as the WPA 778 of 2026 filed by the petitioner is concerned, I find that the petitioner in this writ petition in effect has prayed for cancellation of certificate of enlistment issued in favour of the added respondent who is the respondent No. 10 in the instant writ petition though, in the prayer portion the

petitioner seeks for prohibitory orders restraining the respondent No. 10 from carry on any business. I also find that an application for cancellation of trade licence, is already pending. According to the petitioner, the aforesaid application is yet to be disposed of.

11. Having heard the learned advocates for the parties and having regard to the state of affairs prevailing, I direct the municipal authorities to immediately take up hearing of the application for cancelation of the trade licence issued in favour of the respondent No. 10 and the business entity of the respondent No. 10.

12. The decision in this regard must be taken by the municipality within a period of 4 weeks from the date of communication of this order upon giving opportunity of hearing to the parties and by passing a reasoned order.

13. With the above observations and directions, both the writ petitions are disposed of.

14. All parties shall act on the basis of the server copy of this order duly downloaded from this Court's official website

(Raja Basu Chowdhury, J.)

**Sayandeep
A.R. (Court)**