

Form No.J(2)

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

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 29578 of 2025

**Mala Banerjee
Versus
The Kolkata Municipal Corporation & Ors.**

With

WPA 6030 of 2024

**Raj Kapoor Jaiswal
Versus
The Kolkata Municipal Corporation & Ors.**

For the petitioner : Mr. Sumitava Chakraborty
In WPA 29578 of 2025 Mr. Shantanu Chakraborty

For the petitioner in WPA: Mr. Nilanjan Bhattacharya, Sr. Advocate
6030 of 2024 & respondent Mr. Abhilash Chatterjee
No.9 in WPA 29578 of 2025

For Kolkata Municipal : Mr. Achintya Kumar Banerjee
Corporation Mr. Fazlul Haque
Ms. Ina Bhattacharya

Heard on : 18.03.2026.

Judgment on : 18.03.2026

Raja Basu Chowdhury, J (Oral):

1. The present writ petition, being WPA 29578 of 2025 has been filed, inter alia, challenging the notice dated 17th December, 2025

issued under Section 545 and 546 of the Kolkata Municipal Corporation Act, 1980 (hereinafter referred to as the “said Act”).

2. The petitioner’s case proceeds on the premise that the petitioner was inducted by one Amiya Kumar Banerjee as tenant in respect of one room, one small room and one toilet with a right to use passage on the ground floor of the building situated at 33-C Old Ballygunge, 1st Lane, P.O. Ballygunge, P.S. Karaya, Kolkata -700019, at a monthly rent as noted in the petition. The induction of the petitioner was by virtue of an agreement dated 25th September, 2000.

3. The petitioner’s case further proceeds on the premise that the petitioner though was inducted by Amiya Kumar Banerjee, after the demise of said Amiya Kumar Banerjee, the petitioner had been paying rental to Sanchari Banerjee, the granddaughter of Amiya Kumar Banerjee. Still later, after 2008, when Sanchari Banerjee refused to accept the monthly rent, the petitioner had been depositing the monthly rent before the Rent Controller, Kolkata.

4. The petitioner claims to have been carrying on a business of beauty parlour in the name of M/s Dignity Unisex Beauty Parlour, and has requisite permission in the form of certificate of enlistment issued by the municipal authorities. The petitioner’s case further proceeds on the premise that after the private respondent became the co-owner in respect of the aforesaid property in the year

2021, the private respondent had lodged a complaint with the municipal authorities under Section 400(1) of the said Act and following the above, a proceeding was held on 20th September, 2022. Ultimately by an order dated 9th November, 2022, passed by the Special Officer (Building), Kolkata Municipal Corporation, the retention of the beauty parlour on payment of necessary fees, also removal of sheds on open space as marked in the D sketch within thirty days from the date of communication of the order was directed. According to the petitioner, the private respondents had since filed two writ petitions, being WPA 9919 of 2022 and WPA 22366 of 2022. The first writ petition, being WPA 9919 of 2022 was directed against the police authorities, which was disposed of by an order dated 13th February, 2023 thereby recording the fact that the dispute between the petitioner and the private respondent is civil in nature. Insofar as the second writ petition, being WPA 22366 of 2022 is concerned, the same pertains to inaction on the part of the municipal authorities. The aforesaid writ petition was disposed of by a Coordinate Bench of this Court by an order dated 22nd November, 2022, by directing the respondent no.6 to take steps in terms of the order dated 9th November, 2022.

5. Although, an appeal was filed from such order, the Hon'ble Division Bench of this Court was, inter alia, pleased to dispose of the said appeal by noting that an appeal has been filed from the

order of retention and also by observing that the occupants of the building must be given access to the water reservoir which caters to the requirements of such occupants. Accordingly, Kolkata Municipal Corporation was directed to hold local inspection and ascertain as to whether or not the petitioner herein by making any construction, authorized or unauthorized has caused denial of access to the appellant insofar as the appellant's water reservoir is concerned. It was further provided, in the event, the Corporation finds that there is substance in the grievance of the appellant, immediate measures will be taken by the Corporation to ensure that the appellant gets access to the water reservoir, if any. After the aforesaid order was passed, the petitioner claims to have deposited the retention fees. The appeal filed by the private respondents before the Building Tribunal, being BT 190 of 2023 was, however, dismissed by an order dated 9th May, 2025, for default. Subsequently, all on a sudden, the petitioner was served with a notice dated 17th December, 2025 captioned "Unauthorised/Dangerous Building" whereby the petitioner was informed that assistants and workmen would visit the locale on 29th December, 2025 for the purpose of demolishing unauthorized structure that is to remove the shed on open space directed to be demolished by the Special Officer (Building) vide its order dated 16th September, 2025 under Section 400 (1) of the said Act.

6. Today, Mr. Banerjee, learned advocate representing Kolkata Municipal Corporation has placed before this Court a report, which is taken on record. From the above report, it would transpire that the municipal authorities are, in fact, trying to take steps in respect of some newly unauthorised constructed portion in the said premises pursuant to the order dated 9th November, 2022. The report filed by the municipal authorities, however, does not tally with the notice issued by the municipal authorities.

7. Admittedly in this case, I may notice that the order passed by the Special Officer (Building) to the extent of retention which carried in appeal and the petitioner had already deposited the retention fees.

8. Mr. Chakraborty, learned advocate representing the petitioner in WPA 29578 of 2025 would submit that the retention fees were deposited after the petitioner had demolished the portion which were directed to be demolished vide order dated 9th November, 2022. This contention, I tend to accept as submitted by Mr. Chakraborty. The same also appears to be plausible as the municipality would not have accepted the retention fees without the petitioner complying with the other portions of the order.

9. Having regard thereto, the notice issued by the municipal authorities dated 17th December, 2025 threatening to take steps for demolition appears to be unjust and arbitrary. Independent of the aforesaid, this Court, however, cannot lose sight of the fact

that the Hon'ble Division Bench of this Court has already directed the municipal authorities to carry out an inspection for the purpose of providing access to the water reservoir. In the light of the aforesaid direction, I am of the view that the municipal authorities should immediately take steps for complying with the foresaid direction passed by the Hon'ble Division Bench and carry out a fresh inspection, if such inspection has already not been carried out. The parties shall cooperate with the municipal authorities for the purpose of carrying out such inspection. If, the municipal authorities find that the private respondent has been denied access to the water reservoir, which caters the requirement of the entire building, it shall take appropriate steps for providing access to the private respondent. The aforesaid order shall not, however, impede upon the rights of the petitioner to continue with the business operation in any manner whatsoever.

10. As a sequel thereto, the notice dated 17th December, 2025 issued by the Kolkata Municipal Corporation stands quashed.

11. With the above observations and directions, the writ petition is disposed of.

12. In view of the disposal of the writ petition, being WPA 29578 of 2025, the writ petition, being WPA 6030 of 2024 which, in effect, seeks implementation of the order passed by the Hon'ble Division Bench of this Court also stands disposed of. It is

expected that the municipal authorities shall complete the entire process within a period of four weeks from the date of communication of this order.

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.)

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