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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/19/2026

SMT. MITHU BANIK
VS
KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE
THE HON'BLE JUSTICE RAJA BASU CHOWDHURY
Date: 23rd April, 2026

Appearance:
Mr. Arjun Samanta, Adv.
Mr. Samudraneel Nandi, Adv.
....for the petitioner
Mr. Nilotpal Chatterjee, Adv.
Mr. Suman Basu, Adv.
....for the KMC
Mr. Rupayan Deb, Adv.
...for the respondent no.6

1. The present writ petition has been filed, inter alia, praying for a direction upon the municipal authorities to remove and demolish any permanent structure erected by respondent no.6 on the public footpath in front of the petitioner's shop situated at 37/8, Mahatma Gandhi Road, Kolkata – 700 009.
2. Records would reveal that previously the private respondent no.6 had filed a writ petition which was registered as WPO/700/2024, inter alia, contending that despite holding a valid vending licence issued by the Kolkata Municipal Corporation, he has been unlawfully evicted by the respondents from his location at 37/8, Mahatma Gandhi Road, Kolkata – 700 009. In connection with the aforesaid writ petition, the petitioner had also filed an application, inter alia, contending that though the said respondent no.6 previously used to sell tea from a space in front of the shop, however, in the year 2023 he constructed a permanent tea stall on

the footpath which was causing significant disruption to the business operations of the applicant, who is the petitioner herein. Both the writ petition and the application were, however, disposed of by an order dated 8th January, 2025 by recording the assurance given by the learned Advocate for the respondent no.6, who was the petitioner therein, that no permanent structure will be constructed on the footpath and the tea stall will be operated using a movable cart. As such, the Court permitted the petitioner therein being the respondent no.6 herein, to operate the tea stall from the aforementioned vending zone using a movable cart. Although, the respondent no.6 preferred an appeal from this order, the Division Bench of this Court did not interfere with such order and the appeal came to be dismissed by an order dated 12th June, 2025.

3. The present petitioner complains that despite the aforesaid assurance given by the respondent no.6 and despite having not succeeded in the appeal, the said respondent has illegally established a permanent tea stall/structure at the said location contrary to assurance given to this Court.
4. Both the Municipality as also the private respondent no.6 are represented.
5. The learned Advocate for the municipal authorities has filed a report today in Court and would submit that a joint inspection was conducted on 14th March, 2026 in presence of the Town Vending Committee members, local police and the officials from Solid Waste Management and the Secretary, Department of Borough-V (Engineering). The inspection revealed the width of the footpath which was found to be 2.95 metre approximately, and the said tea stall is occupying 0.8 m width and 2.06 m length on the footpath. Mr. Chatterjee, learned Advocate for the municipality by drawing attention

of this Court to the photographs enclosed with the report would submit that a permanent structure/stall has been set up by the respondent no.6.

6. The learned Advocate for the respondent no.6 would submit that a Special Leave Petition has been filed from the order dated 12th June, 2025 and, as such, pray for an accommodation.
7. Having heard the learned Advocates appearing for the respective parties, I find that the respondent no.6 had previously given specific assurance before this Court that he shall not construct any permanent structure on the footpath and the tea stall will be operated using movable cart. It is on the specific assurances given by the respondent no.6 through his Advocate, this Court by an order dated 8th January, 2025 had permitted the respondent no.6 who was the petitioner therein to operate the tea stall from the vending zone using a movable cart. It now transpires though the respondent no.6 is carrying on business operation of selling tea; the same is not from a movable cart but rather a fixed structure. Although, the learned Advocate for the respondent no.6 would submit that a Special Leave Petition has been filed, the advocate for the respondent no.6 submits that no Special Leave Petition number has yet been allotted though the order forming subject matter of challenge in the Special Leave Petition has been passed on 12th June, 2025. Having regard thereto, I am unable to accede to the prayer made by the learned Advocate for the respondent no.6 to adjourn the matter.
8. Further taking into consideration the fact that on the basis of the assurance given by the respondent no.6 the Court permitted the said respondent to continue the vending business from movable cart and noting from the report filed by the municipality that the business is carried out by

the respondent no.6 in front of the shop room of the petitioner from a fixed stationary cart/stall, I am of the view that the respondent no.6 should immediately make the cart movable and should not carry on business in a stationary manner in front of the shop room of the petitioner. The municipal authorities are directed to carry out an inspection within three weeks from date. In the event, the municipal authorities find that no steps have been taken by the respondent no.6 to make the cart movable and the business of the respondent no.6 is being carried out in a stationary fashion, in such event, the cart/stall shall be removed.

9. The writ petition is, thus disposed of.

(RAJA BASU CHOWDHURY, J.)

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