

OD - 16

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/36/2026
BINOD KUMAR SHARMA AND ANR
VS
THE STATE OF WEST BENGAL AND ORS

BEFORE:

The Hon'ble JUSTICE RAJA BASU CHOWDHURY

Date: 5th March, 2026.

Appearance:

Ms. Paramita Mukherjee, Adv.

Mr. Manabendra Nath Banyopadhyay, Adv.

Mr. H. Mustafa, Adv.

Ms. Suhana Parveen, Adv.

...for petitioner.

Mr. Manoj Malhotra, Adv.

Mr. Sabyasachi Mondal, Adv.

...for State.

Mr. Vimal Kumar Shahi, Adv.

Ms. Gulnaz Quraishi, Adv.

..for KMC.

The Court:- 1. The present writ petition has been filed, inter alia, praying for a direction on the respondents so that the possession of the petitioners in respect of the flat situated at premises No.35B, Kailash Bose Street, Kolkata is not interfered with and for a direction upon the municipal authorities not only to regularise the illegal construction but also to issue a completion certificate in respect of the premises No. 35B, Kailash Bose Street, Kolkata in the light of the judgment dated 5th January, 2026.

2. Records would reveal that the municipality upon detecting an unauthorised construction in the above premises had issued stop work notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 [hereinafter referred to as the said 'Act'] on 23rd July, 2019. Since the stop work notice was not adhered, an FIR was lodged under Section 401(A) of the said Act against the person responsible on 23rd July, 2019. It would also transpire from the records that in connection with a writ petition being WPO/1748/2023 a co-ordinate Bench of this Court by order dated 11th December, 2023 upon ascertaining a three storied masonry building had been constructed at the above premises wherein the second floor and the staircase from the ground floor to the second floor have been illegally constructed without obtaining any sanction plan, directed to take prompt necessary action and to pass a reasoned order and to communicate the same to the parties.

3. According to the report filed by the municipality in Court today, which is taken on record, it would transpire that in furtherance to the above order dated 11th December, 2023 passed by a co-ordinate Bench, the matter was placed before the Special Officer Building and ultimately, demolition order under Section 400(1) of the said Act was passed and the demolition date was fixed on 20th January, 2026. Subsequently, the records have been forwarded to the Municipal Building Tribunal as an appeal has been filed.

4. The learned Advocate for the municipality would submit that the order passed by the Special Officer Building has since been stayed and the matter is pending adjudication before the Tribunal. The learned Advocate for the petitioners would

submit that the petitioners are not parties before the Tribunal and the above appeal has not been preferred by them.

5. Having heard the learned Advocates appearing for the parties, I am of the view that there is no scope at this stage to either direct the municipality to issue completion certificate or to direct the municipality to regularise the illegal construction. Admittedly a co-ordinate Bench has taken note of the illegality committed and directed the municipality to act. Pursuant to the above order the Special Officer Building has passed an order which is under challenge before the Tribunal. Having regard thereto, I am not inclined to interfere.

6. Accordingly, the writ petition is dismissed.

(RAJA BASU CHOWDHURY, J.)

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