

OD-05

WPO/58/2026
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

Atia Shaheen
Versus
The Kolkata Municipal Corporation & Ors.

Before:
The Hon'ble Justice RAJA BASU CHOWDHURY
Date: 12th February 2026

Appearance:
Mr. Amit Gupta, Advocate
Ms. Debangana Dey, Advocate
Ms. Subhasni Chatterjee, Advocate
Mr. Amaan Deep Gupta, Advocate
for the petitioner

Mr. Debjit Mukherjee, Advocate
Ms. Priyanka Jana, Advocate
for the KMC

The Court: 1. The present writ petition has been filed, inter alia, challenging the notice issued under section 401 of the Kolkata Municipal Corporation Act, 1980 (hereinafter referred to as "the said Act") dated 22nd August 2025. The petitioner also challenges the proceeding initiated for demolition before the Special Officer (Building).

2. It is the petitioner's case that the petitioner had started constructing at premises no.16, Raja Dinendra Street, Ward – 28, Borough – IV, Kolkata pursuant to a sanctioned building plan issued by the municipal authorities. It is not in dispute that in the instant case the municipal authorities having detected that the petitioner has deviated from the sanctioned building plan, had issued a stop work notice on 22nd August 2025.

3. Mr. Mukherjee, learned advocate representing the municipality has placed before this Court a report duly counter-signed amongst other by the Executive Engineer (C)/Building/Br-IV dated 5th February 2026. According to the said report, a plan was sanctioned by the department in respect of the premises no. 18, Raja Dinendra Street, Ward – 28, Borough – IV, Kolkata on 17th March 2008 for erection of a four storied building which is situated on the northern side of the premises no. 16, Raja Dinendra Street, Kolkata. In the sanctioned plan of premises no.18, Raja Dinendra Street it was observed that a strip of land was gifted to Kolkata Municipal Corporation on the southern side of premises no.18, Raja Dinendra Street (in-between the premises no. 16 & 18, Raja Dinendra Street) for widening of the common passage and provided splayed corner as shown in the sanctioned plan. Incidentally, though, in respect of the premises no. 16, Raja Dinendra Street a building plan dated 7th November 2022 was sanctioned and later since it was noticed that the construction was going in deviation of the sanctioned plan by encroaching the common passage, the department had issued a stop work notice under section 401 of the said Act on 22nd August 2025. Due intimation in that regard was also provided to the Narkeldanga Police Station by a letter dated 23rd August 2025.

4. Later in course of hearing in the chamber of Addl. Municipal Commissioner on 15th October 2025, the person responsible for construction of 16, Raja Dinendra Street had agreed to leave a passage at northern side, unfortunately, no such passage was left. During routine inspection on 21st November 2025 it was observed that the person

responsible had started the construction work defying the stop work notice under section 401 of the said Act and casted cantilever portion at the first floor level all around the building thereby, deviating further from the sanctioned plan. Accordingly, an F.I.R. under Section 401(A) of the said Act dated 22nd November, 2025 was lodged following which a demolition sketch was prepared and placed before the higher authority for process.

5. Having heard the learned Advocates appearing for the respective parties and having regard to the peculiar facts as noted hereinabove, I am of the view that there is no scope for this Court to grant any relief to the petitioner at this stage. Admittedly, since the petitioner has acted de hors the sanctioned building plan and has also encroached upon the public road, the municipality should take immediate steps to remove the encroachment from the public road in accordance with law, and file a detailed report before the Registrar, Original Side of this Court within a period of eight weeks from the date of communication of this order. The report must contain the photographs of the offending portion as also the removal thereof. Once, the report is filed, the Registrar, Original Side shall tag such report with the file.

6. With the above observation, the writ petition stands disposed of.

7. There shall be no order as to costs.

(RAJA BASU CHOWDHURY, J.)