

OD 3

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/51/2026
IA NO: GA/1/2026,
GA/2/2026,
GA/3/2026
SK MD ISHQUE
VS
MD SHAHID AND ORS.

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
The Hon'ble JUSTICE AJAY KUMAR GUPTA
Date: 25th March, 2026.

Appearance:
Mr. Biswajit Mukherjee, Adv.
Mr. Avirup Chatterjee, Adv.
Mr. Sumitava Chakraborty, Adv.
Mr. Rishov Das, Adv.
Mr. Shantanu Chakraborty, Adv.
...for the appellants
Mr. Sounak Bhattacharya, Adv.
Ms. Satabdi Das, Adv.
Mr. Anirban Saha Roy, Adv.
...for respondent nos. 8 to 10
Mr. Alak Kr. Ghosh, Adv.
Ms. Manisha Nath, Adv.
...for KMC

The Court: IA GA 1 of 2026 is an application for leave to appeal. GA 2 of 2026 is an application for condonation of delay in filing the application for leave to appeal from the judgment and order dated January 15, 2026 passed by the learned Single Judge in WPO 759 of 2025.

Upon considering the averments in paragraphs 5 to 12 of the said application, we are satisfied that the delay of 26 days in filing the appeal has been explained. GA 2 of 2026 is allowed. Now we propose to take up the application for leave to appeal.

GA 1 of 2026 is allowed on considering the fact that the applicant, who seeks to file the appeal from the order passed by His Lordship, claims to be the developer and the person responsible for the construction. The order which was passed by His Lordship in WPO 759 of 2025 adversely affects the construction raised by the applicant.

Now we proceed with the appeal.

We are of the view that appellant should be made a party to the writ proceeding and accordingly addition of the appellant in the writ proceeding is allowed. The writ petitioner will take necessary steps and serve a copy of the writ petition to the learned Advocate for the appellant.

It is submitted by Mr. Ghosh, learned advocate for the Corporation that inspection has already been held and it has been found that the demolished portion had been restored. However, as the appellant, who is a person responsible for the construction, was not before His Lordship when the order was passed, the restoration of the demolished area shall not take place for a period of four weeks. The report shall be filed before His Lordship by the Corporation and thereafter circulated amongst the parties. The appellant shall raise his grievance before His Lordship. Paragraph 5 of the order is modified to the extent that till further order by His Lordship, demolition will not take place. However it is made clear that no construction will be permitted on the building till further order of the Writ Court and the corporation as also the Police Authorities will maintain strict vigil. If any further construction activity is found prompt action will be taken to stop the same.

Accordingly the appeal is disposed of.

(SHAMPA SARKAR, J.)

(AJAY KUMAR GUPTA, J.)