

ORDER SHEET
APOT/54/2026
IA NO: GA/1/2026, GA/2/2026
IN THE HIGH COURT AT CALCUTTA
An Appeal from its Constitutional Writ Jurisdiction
ORIGINAL SIDE

TARIQUE HASHMAT
VS
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
AND
The Hon'ble JUSTICE AJAY KUMAR GUPTA
Date: 9th June, 2026.

Appearance:
Mr. Raghunath Chakraborty, Adv.
Ms. Amrita De, Adv.
Ms. Tanushree Das, Adv.
Mr. Supratick Shyamal, Adv.
Mr. Saikat Thakurata, Adv.
...for the appellant

Mr. Biswajit Mukherjee, Adv.
Mr. Gopal Chandra Das, Adv.
Ms. Ananya Das, Adv.
...for the K.M.C.

Mr. Indrajeet Dasgupta, Adv.
Mr. Gourab Maiti, Adv.
...for the occupiers

The Court: IA No.GA/1/2026 is an application for condonation of delay of 48 days in filing the appeal. Considering the averments in paragraphs 3, 4 and

5, we are satisfied with the explanations provided by the appellant in preferring the appeal beyond time. The delay is condoned. Accordingly, IA No.GA/1/2026 is allowed. The appeal is regularized.

The appellant is aggrieved by an order dated January 6, 2026 passed in W.P.O. 457 of 2025. By the order impugned, the learned Single Judge disposed of the writ petition, inter alia, directing the appellant, who is the owner of a property which was in need of repair, to carry out the repair works under the supervision of a structural engineer, failing which the occupiers of the property were granted liberty to carry out the repairs to be indicated by the supervising structural engineer upon approaching the corporation and thereafter, recover the cost of such repair from the appellant.

Mr. Chakraborty, learned advocate for the appellant submits that the order impugned suffers from the following irregularities :

- a) The learned Judge failed to appreciate that the law provides for a mechanism under which the owner of the property can seek to demolish a dilapidated structure upon providing for the tenants/occupiers.
- b) As the property was required to be repaired, it would consequently mean that the property was not in a habitable condition and as such, it was necessary for the owner to demolish the old structure and raise a new structure thereon, upon accommodating the occupiers.

The learned advocate for the corporation submits that the order does not suffer from any irregularity. Upon inspection of the building it was found that the building needed certain repairs. The debris to be collected upon repair were

also required to be removed. The supervision of a structural engineer was necessary during such repair work.

Learned advocate for the occupiers submits that the building requires repair, were the question of the building being demolished did not arise at all. There are several occupiers in the building of the premises.

Heard the parties. The corporation is an expert in this regard. Upon inspection, the corporation found that the building required repairs. The repairs were needed to essentially preserve the building, to secure the unsecured portions and to ensure that the owner and the occupiers were safe. Life risks and other hazards were sought to be avoided by directing the repairs to be carried out immediately. Mr. Chakraborty's contention that the owner also has an option to demolish the structure was not the subject matter of the writ petition. Under such circumstances, such issue is not relevant for the purpose of disposal of this appeal.

His Lordship had appreciated the matter in its proper perspective. The corporation had found that the building required repairs. The safety and security of the persons occupying the same was primary. The owner could also face serious consequences in case of any accident. Thus His Lordship had directed the owner to carry out the repairs as per the direction of KMC, under the supervision of a structural engineer. If the owner failed to comply with such liability to maintain his building in a proper and safe position, the occupiers who were residing there, were allowed to carry out the repairs upon approaching the corporation as per the advice of a structural engineer, and recover the cost from the owner. The order is well-reasoned and the equities have been balanced.

Under such circumstances, the appeal and the connected application being GA/2/2026 are disposed of. The other right of the owner to demolish the building and raise a new construction, is not considered in this proceeding.

(SHAMPA SARKAR, J.)

(AJAY KUMAR GUPTA, J.)