

OD-03

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/150/2026

KRISHNA GOPAL SENGUPTA
VERSUS
THE STATE OF WEST BENGAL & ORS.

BEFORE:

THE HON'BLE JUSTICE RAJA BASU CHOWDHURY

DATE: 30th June, 2026

Appearance:

Mr. Sujay Bandyopadhyay, Advocate
Mr. Shambhu Mahato, Advocate
Mr. Subhamoy Dutta, Advocate
for the petitioner

Mr. Alak Kumar Ghosh, Advocate
Mr. Swapan Kumar Debnath, Advocate
for the KMC

Mr. Sourav Ghosh, Advocate
Mr. Sukanta Ghosh, Advocate
Mr. Arghya Chatterjee, Advocate
...for the State

Mr. Raghunath Chakraborty, Advocate
Mr. M. Ahmed, Advocate
....for the private respondent

1. The present writ petition has been filed *inter alia* praying for a direction upon the Executive Engineer, Borough-I, Kolkata Municipal Corporation and the State authorities to ensure that the order dated 6th May, 2024 passed by the Executive Engineer, Borough-I, Kolkata Municipal Corporation is complied with.
2. The petitioner claims that the petitioner along with his wife acquired right, title and interest in respect of all that piece and parcel of flat of the first floor measuring about 500 sq. ft. more or less equivalent to undivided impartible

1/8th share of land measuring 3 cottah of premises no.33A, Banamali Chatterjee Street, Police Station – Tala, Kolkata – 700 002 of the residential apartment named “Asthana” together with rights in common with all persons lawfully entitled thereto more fully described in the fourth schedule of the deed of conveyance dated 23rd September, 2013. According to the petitioner, the petitioner has since mutated the property in his name and his wife’s name in the roll of the Kolkata Municipal Corporation.

3. Incidentally, the private respondent is one of the flat owners of the said premises and resides in the 3rd floor of the said building and had carried out illegal construction.
4. On the basis of the complaint made by the petitioner, a demolition case was started and an order was passed by the Special Officer (Building) on 11th April, 2022. Subsequently at the instance of the person responsible i.e. Banani Dutta pursuant to an order passed in WPA No.21609 of 2023 on 19th December, 2023 a joint inspection was held and later in terms of the order of this Hon’ble Court on 7th March, 2024, and 13th February, 2024 in CC/20/2024, APOT/60/2024 an order was passed by the Executive Engineer on 6th May, 2024 directing removal/demolition of glazed with aluminum framed sliding door which has been erected at entrance of stair landing at 3rd floor to keep free movement in stair along with access to the roof.
5. Being aggrieved by such direction, the private respondent has filed a writ petition being WPO/532/2024. Such writ petition was disposed of by the Coordinate Bench of this Court by an order dated 6th June 2024, inter alia, by observing that the unauthorized construction has already been demolished

under the demolition order dated 11th April 2022 and as such if the petitioner in such case had once again reconstructed, such construction is also unauthorized, the writ petition was thus dismissed.

6. The records would reveal that an appeal was preferred from the aforesaid order, which was registered as APOT/233/2024. By consent of the parties, the appeal was disposed of under the following terms:

“The Court:- During hearing of the appeal, parties consent to the following order.

1. The appellants shall hand over the key to the glazed with aluminum framed sliding door (hereinafter referred to as the “unauthorized construction) within 24 hours to the private respondent and shall not obstruct his access to the terrace. This would, however, not create any equity in favour of the private respondent in the pending civil suit.
 2. Subject to the aforesaid, the order of demolition shall be kept in suspension and appellants shall be entitled to make application before the Municipal Commissioner for regularization of the unauthorized construction upon payment of retention fee as per law.”
7. The petitioner would complain that notwithstanding the parties agreeing that within 24 hours the appellant shall hand over the keys to the glazed with aluminum framed sliding door to the private respondent, such direction has not been complied with.
 8. Mr. Chakraborty, learned advocate appears for the private respondent and would submit that the respondent no.10 and/or his predecessor at all

material times was interested to comply with the direction passed by the Division Bench on 25th June, 2024. He has placed before this Court a letter dated 11th July 2024 to point out that his client had made an attempt to make over the key to the glazed with aluminum framed sliding door but unfortunately, the petitioner did not accept the key. He has also brought the key for the said portion in Court today.

9. Having heard learned advocates appearing for the respective parties, I am of the view that without going into the disputes as raised by the parties, since the legal heirs of Banani Dutta are ready to make over the key and the same has been brought before this Court today, let such key be made over to Mr. Ghosh, learned advocate representing the municipality. The municipality is directed to depute a personnel and shall check whether with the said key the glazed with aluminum framed sliding door can be opened. Upon carrying out such inspection and if the key passes the test, Mr. Ghosh shall make over a duplicate key of the same to the petitioner and the other to the respondent no.10. If, however, for any reason the lock cannot be opened, appropriate steps shall be taken to open the lock.
10. Having regard to the above, nothing survives in the writ petition and the same stands disposed of, accordingly.

(RAJA BASU CHOWDHURY, J.)