

OD-1

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

APO/42/2025
WPO/645/2024
IA NO:GA/2/2025
GA/3/2025

MRINAL KANTI BHATTACHARYYA
VS.
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE :
THE HON'BLE JUSTICE MADHURESH PRASAD
And
THE HON'BLE JUSTICE PRASENJIT BISWAS
Date : 3rd February, 2026.

Appearance:
Mr. Raghunath Chakraborty, Adv.
Ms. Sonali Sengupta, Adv.
...for the Appellant/Petitioner.

Mr. Biswajit Mukherjee, Adv.
Ms. Susmita Chatterjee, Adv.
...for the KMC.

Ms. Tuli Sinha, Adv.
...for the State.

Mr. Sambuddha Dutta, Adv.
Mr. Arkaprava Sen, Adv.
Mr. Sayantan Kar, Adv.
...for Respondent no.7.

Mr. Tapas Kumar Dey, Adv.
Mr. Nirupam Sarkar, Adv.
...for Respondent no.8.

1. Heard the learned Advocates representing the parties.

2. The writ petitioner/appellant has invoked this intra-Court appellate jurisdiction assailing the order of the learned Single Judge Bench, dated 24th September, 2024. The order reads as follows :-

“The Court: The petitioner alleges unauthorised construction by respondent no.8 at premises no. 16/3B, Dixon Lane, Ward No. 50, Borough – V under Kolkata Municipal Corporation.

The confusion that cropped up in the mind of the Court as recorded in the order dated September 3, 2024 has been clarified by the Corporation by filing a report today.

The report of the Corporation suggests that a plan was sanctioned under Rule 3(2)(e) of Kolkata Municipal Corporation Building Rule, 2009 and under Section 410 of the Kolkata Municipal Corporation Act, 1980 in respect of the aforesaid premises. During the construction work, the respondent no.8 deviated from the sanctioned plan and raised some unauthorised construction. The petitioner thereafter filed WPO/185/2024 before this Court alleging unauthorised construction by respondent no.8, which was disposed of by a Co-ordinate Bench of this Court by an order dated 8th March, 2024 with a direction upon the Director General (Building) to pass necessary order in accordance with law.

In compliance with the said order, the Director General (Building) passed a demolition order on June 15, 2024.

In compliance with the said order dated June 15, 2024, the respondent no.8 demolished the deviated portion. Thereafter, again, respondent no.8 undertook some unauthorised construction beyond the sanctioned plan which prompted the Kolkata Municipal Corporation to issue a notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 upon the respondent no.8.

From the submissions made by the Corporation today, it further appears that for violation of the said notice under Section 401, the Corporation has also lodged an FIR against the respondent no.8.

In view of the aforesaid developments, no further order needs to be passed in this writ petition.

It is clarified that the Corporation will be at liberty to proceed in accordance with law for demolition of the deviated part as detected by it giving due opportunity of hearing to respondent no.8.

Learned advocate appearing for respondent no.7 submits that respondent no.8 undertook the construction on the basis of a forged power of attorney purportedly executed by respondent no.7.

There is no scope to adjudicate such a dispute in this writ petition. The parties have informed this Court that already a civil suit is pending between the parties regarding this issue.

Accordingly, WPO/645/2024 along with GA/1/2024 for addition of parties is disposed of.”

3. We have made specific query from the learned Advocate for the writ petitioner/appellant as to what further direction is required. He submits that there are other issues striking at the root of legality of the sanctioned plan, based on which the structure in question is being erected. He submits that liberty be granted to raise the issue before the appropriate authority under the Kolkata Municipal Corporation Act, 1980.

4. Having recorded the submissions, we are of the view that no further clarification and/or modification of the order of the Hon'ble Single Judge is required. There is nothing in the order limiting the scope of the writ petitioner/appellant to raise any legal issue before any competent authority.
5. At this juncture, learned advocate representing the private respondent no.7 has attempted to reiterate the submission recorded in the order of the learned Single Judge.
6. Having regard to the observation of the Hon'ble Single Judge recorded above, we find no reason to grant any such indulgence to the private respondent no.7 in this appeal filed by the writ petitioner.
7. The appeal along with connected applications is, accordingly, disposed of.

(MADHURESH PRASAD, J.)

(PRASENJIT BISWAS, J.)