

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE**

**APOT/82/2026
IA No.GA/1/2026**

MD. NAZIM AND ORS.

-VERSUS-

**THE OFFICIAL TRUSTEE,
GOVERNMENT OF WEST BENGAL AND ORS.**

BEFORE:

HON'BLE JUSTICE DEBANGSU BASAK

-A N D-

HON'BLE JUSTICE MD. SHABBAR RASHIDI

For the Appellant	:	<i>Md. Farhaduddin, Adv. Mr. Siddhartha Ruj, Adv. Ms. Era Ghose, Adv. Mr. Shabbir Yazdani, Adv.</i>
For the Official Trustees	:	<i>Mr. Indranil Nandi, Adv. Mr. Sayak Konar, Adv.</i>
For the State	:	<i>Ms. Aparna Banerjee, Adv. Mr. Rhitam Chatterjee, Adv. Mr. Nikhil Jhunhunwala, Adv.</i>
For the KMC	:	<i>Mr. Alak Kumar Ghosh, Adv. Mr. Gopal Chandra Das, Adv. Ms. Ananya Das, Adv.</i>
HEARD ON	:	17.06.2026
DELIVERED ON	:	17.06.2026

DEBANGSU BASAK, J.:-

1. Appeal is specially assigned to this Bench.
2. Appeal arises out of the order dated April 20, 2026 passed in WPO/115/2026.

3. By the impugned order, learned Single Judge directed filing of affidavits in the writ petition. Learned Single Judge refused to grant any interim protection to the appellants.
4. Appellants claim themselves to be bona fide tenants in respect of premises No.26, Ezra Street, Police Station- Hare Street, Kolkata- 700 001.
5. Learned Advocate appearing for the appellants submits that, as bona fide tenants, the appellants were paying the monthly rents. He relies upon the rent receipts issued to the appellants from time to time. He submits that, the appellants also deposited rent with the learned Rent Controller after the death of the landlord.
6. Learned Advocate appearing for the appellants submits that, a fire temple of the Parsi community existed at the premises no.26, Ezra Street, Kolkata- 700 001. The surviving trustee expired in 2018. Subsequent to his death, the appellants were constrained to deposit rent with the learned Rent Controller.
7. Learned Advocate appearing for the appellants draws the attention of the Court to the order dated November 21, 2024 passed by the Division Bench. He submits that, the appellants were granted protection from eviction from the tenancy concerned.
8. Learned Advocate appearing for the appellants submits that, the Official Trustee issued a notice dated February 23, 2026 by which the right of the appellants as tenants were sought to be curtailed. He submits that, by such notice ingress and egress of the appellants to the respective tenancies were denied. Electricity authorities were

restrained by such notice from granting electricity supply to the appellants.

9. Learned Advocate appearing for the appellants submits that, the appellants carry on business from their respective tenancy. The notice dated February 23, 2026 issued by the Official Trustee affects the livelihood of the appellants. According to him, such notice was issued without any basis and against the findings returned by the Division Bench in the order dated November 21, 2024. He submits that, tenancies of the appellants stood accepted by the High Court. The Official Trustee, subsequent thereto, cannot not deny the right of tenancy to the appellants.
10. Learned Advocate appearing for the appellants submits that, the learned Single Judge erred in not granting interim protection to the appellants. The appellants are yet to be evicted from their respective tenancies by a process known to law. He submits that, no suit for eviction, at least to the knowledge of the appellants, is pending. The appellants are, therefore, entitled to carry on their livelihood from the respective tenancies of the appellants at premises no.26, Ezra Street, Kolkata- 700 001.
11. Learned Advocate appearing for the appellants submits that as the appellants are in settled possession electricity should be afforded to them.
12. Learned Advocate appearing for the Official Trustee submits that, a fire temple existed at premises no.26, Ezra Street, Kolkata- 700 001. A

devastating fire affected the fire temple and, in fact, the entire structure on such premises on November 15, 2025.

13. Learned Advocate appearing for the Official Trustee submits that, the fire temple is more than 200 years old. It was declared as a Grade I heritage building by the Kolkata Municipal Corporation (KMC). Efforts to restore the fire temple received consideration by the High Court.
14. Learned Advocate appearing for the appellants draws the attention of the Court to the order dated January 17, 2025 passed by the Coordinate Bench. He submits that, in an appeal from an order passed in relation to the eviction proceedings in respect of premises no.27, Ezra Street, Kolkata the Official Trustee was appointed to maintain the present building. He refers to the contents of such order.
15. Learned Advocate appearing for the Official Trustee submits that, the claim of tenancy of the appellants was enquired into by the Official Trustee. The alleged signature of the trustee appearing in the rent receipt relied upon by the appellants in support of the contention of their tenancy do not tally with the signature of such trustee appearing in the plaint of a suit filed before the learned City Civil Court at Kolkata. He submits that, the Official Trustee obtained a certified copy of such plaint. On a visual comparison between the signatures of the trustee appearing on the plaint and the signature allegedly of such trustee appearing on the rent receipt, one will arrive at a finding that the two signatures are different. He submits that, on such basis the Official Trustee did not acknowledge any of the appellants to be the

tenants in respect of any part or portion of the premises no.26, Ezra Street, Kolkata- 700 001.

16. Learned Advocate appearing for the Official Trustee submits that, scheme for conservation and preservation of the fire temple is yet to be finalized. He submits that, every person lawfully entitled to occupy any part of portion of the premises will be accommodated upon restoration and conservation of the fire temple. He submits that, the appellants before the Court, are persons who are claiming to occupy area surrounding the fire temple.
17. Learned Advocate appearing for the Official Trustee submits that, due to the devastating fire occurring on November 15, 2025 both the fire temple and the structure adjoining the fire temple are in dilapidated condition. There are every possibility of the structure collapsing if the persons are allowed to use or occupy any part of portion of the premises.
18. We called for a report from the Kolkata Municipal Corporation (KMC) by our order dated June 15, 2026. Report so called for filed in Court be taken on record.
19. It appears from such report that, the KMC noted that there was a fire in the building on November 15, 2025. Electric supply was disconnected during such fire. Kolkata Municipal Corporation is of the view that since the temple building is old and declared heritage, preservation and conservation of such heritage building is required to be undertaken in accordance with law. Such preservation and conservation is yet to be completed.

20. Appellants approached writ Court challenging a notice dated February 23, 2026 issued by the Official Trustee. By such notice, the Official Trustee requested all authorities concerned to ensure that no electricity supply is effected at the premises no.26, Ezra Street, Kolkata- 700 001 and that no persons are allowed ingress and egress at such premises.
21. By the impugned order, learned Single Judge returned a prima facie finding that any interim order staying operation of the notice dated February 23, 2026 would be construed as a final order insofar as the appellants' right to occupy the premises is concerned.
22. Before us, the appellants in support of their claim of tenancy, put forward documents claiming to be rent receipts and deposit receipts with the Rent Controller. The appellants also rely upon trade licence, certificate of enlistment with the KMC, income tax return and GST registration as documents supporting their settled possession at such premises.
23. Apart from the tenancy agreement or the rent receipt all other documents will not establish a tenancy in respect of any person. So far as the tenancy is concerned, such claim is based on rent receipt allegedly issued by the Trustee.
24. There are substance in the contention of the Official Trustee that, there are variation in the signatures appearing in the plaint filed by such trustee before the learned City Civil Court at Kolkata prior in point of time and the rent receipt sought to be canvassed before the Court. Finding of the Official Trustee that the appellants could not support

their right to occupy in plausible, in the facts and circumstances of the present case.

25. Prima facie finding of the learned Single Judge, therefore, that there are no document to establish the claim of the appellants, cannot be said to be perverse at this stage. The writ petition is yet to be finally decided.
26. Our order dated November 21, 2024 was passed in the context of such matter. In any event we clarified therein that such finding was on the basis of the records put forward then and was prima facie in nature. Records placed before us did not permit us to arrive at a conclusive finding that any of the appellants before us are bona fide tenants in respect of any part of portion of premises no.26, Ezra Street, Kolkata- 700 001. The relevant observation of our order dated November 21, 2024 is as follows:

“These findings are based on the records made available to Court in the appeal. Since we are hearing an appeal directed against an order passed in a pending writ petition, we are not returning any final finding as to the status of the appellants before us.”

27. Premises no.26, Ezra Street, Kolkata- 700 001 was declared as a heritage building. It requires protection, preservation and conservation. Preservation and conservation are in progress by virtue of the orders passed by Court from time to time as well by the efforts made by the Official Trustee and the KMC. Granting any interim relief in favour of any of the appellants herein is likely to impede such efforts. Permitting

any of the appellants to obtain electric supply would be inimical to the efforts of preservation of the heritage building.

28. Consequently, balance of convenience and inconvenience also do not lie in favour of any of the appellants in granting any interim relief to the appellants at this stage.

29. Accordingly, APOT/82/2026 along with all pending applications are dismissed without any order as to costs.

(DEBANGSU BASAK, J.)

30. I agree.

(MD. SHABBAR RASHIDI, J.)

A/s.