

ORDER

OD – 3

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/96/2026
IA NO: GA/1/2026
GA/2/2026
RAZIA SHAHEEN
VS
KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR
The Hon'ble JUSTICE AJAY KUMAR GUPTA

Date: 17th June 2026.

Appearance:

Mr. Partha Sarathi Das, Adv.
Shah Md. Umer Sadhique, Adv.
Ms. Purnima Panda, Adv.
Ms. Swarnali Ghosh, Adv.
Ms. Maria Sharwari, Adv.
... for Appellants.

Mr. Alak Kr. Ghosh, Adv.
Mr. Swapan Debnath, Adv.
Mr. Gopal Chandra Das, Adv.
Ms. Ananya Das, Adv.
... for KMC.

Mr. Asif Sohail Tarafder, Adv.
Mr. Shraman Sarkar, Adv.
... for respondent No.6.

1. GA/1/2026 is an application for condonation of delay of 41 days in filing the appeal. Considering the averments in paragraph 19 of the said application, we are satisfied that the delay has been explained. GA/1/2026 is allowed. The appeal is restored to its original file and number.

2. The appellant is aggrieved by an order dated March 9, 2026 passed by a Learned Single Judge in WPO/57/2026. By the order impugned, His Lordship directed that the Kolkata Municipal Corporation [in short, 'KMC'] should forthwith arrest the illegal construction being carried on at premises no.6B, Karim Bux Lane, Kolkata – 700016, by issuing a notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 [in short, 'KMC Act']. The KMC was further directed to conclude the proceedings initiated by them under Section 400(1) of the KMC Act. According to the appellant, the order of His Lordship did not take note of the appellant's submission that, apart from the structure on the roof of the tenanted floor of the subject premises, there are other unauthorized constructions which KMC failed to take into consideration. In an earlier writ petition, the appellant had approached the Court and an order was passed directing the KMC to take steps in accordance with law. It is contended by the appellant that, the KMC restricted its findings upon an erroneous appreciation of the actual fact. The private party had constructed unauthorisedly, much beyond what was detected by the KMC.
3. His Lordship recorded that the part of the unauthorized constructions which had been detected in the report shall be arrested and stop-work notice should be issued. However, we find that the submissions of the appellant that further unauthorized constructions are not reflected in the report of the KMC filed before the Learned Single Judge. We are of the view that the KMC has not finally decided the matter of unauthorized construction. The proceeding is pending before the Special Officer

(Building) under Section 4 of the KMC Act and 25th June 2026 is the next date fixed. Thus, the rival contentions of the parties can be made before the concerned authority. The appellant will also be at liberty to pray for inspection in presence of the parties, so that they are able to demonstrate the alleged unauthorized constructions. Upon the inspection being held, if prayed for, and upon the report of such inspection being furnished to the parties, the Special Officer (Building) shall continue with the hearing and pass necessary order in accordance with law, to bring the entire demolition proceeding to its logical conclusion. The entire exercise shall be completed within six weeks from the date of communication of this order.

4. The appeal and the connected applications are disposed of with the modification of the order impugned.

(SHAMPA SARKAR, J.)

(AJAY KUMAR GUPTA, J.)