

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

APOT/102/2026
IA NO: GA/1/2026
DR. LALIT KUMAR AGARWAL AND ANR.
VS
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. Nilendu Bhattacharya, Adv.
Mr. Sayak Mitra, Adv.
...for the appellants

Mr. Nilotpall Chatterjee, Adv.
Ms. Manisha Nath, Adv.
...for KMC

Mr. Rachit Lakhmani, Adv.
Ms. Pooja Sah, Adv.
Mr. K.K. Ahmed, Adv.
. . .for respondent nos. 5 & 6

The Court: This appeal has been filed from an order dated May 6, 2026, passed by a Learned Single Judge in WPO 24 of 2026. The writ petition is pending. During the pendency of the writ petition, the respondent nos. 5 and 6

filed an intervention application. His Lordship was pleased to direct hearing of the said intervention application upon exchange of affidavits.

According to Mr. Bhattacharya, the said application was misconceived and His Lordship ought to have dismissed the same in limine without calling for affidavits. Mr. Bhattacharya contended that applicants who sought to intervene in the proceeding did not have any locus.

The writ petition was filed challenging the demand towards retention fees made by the Corporation upon conclusion of hearing with regard to a demolition proceeding and upon regularization of the deviations.

Mr. Bhattacharya further contends that the Corporation had submitted before His Lordship that the applicants who sought to intervene were heard and the entire proceeding before Corporation was disposed of in the presence of the applicants. Under such circumstances, granting further opportunity to the applicants to contest the subsequent writ petition was unwarranted. The order of retention was passed sometime in 2024 and the applicants who had initially alleged unauthorized construction had remained silent over the matter in spite of having participated in such demolition proceeding. They were unsuccessful before the Corporation.

We appreciate the contentions of Mr. Bhattacharya, but these issues are not to be decided by us at this stage.

We find that His Lordship has not gone into the merits of the issues, but has kept the matter for final adjudication upon exchange of affidavits. With

regard to the liberty granted to the applicants to take steps against the order passed in the demolition proceeding by the Corporation, we are of the view that, such liberty does not amount to deciding the maintainability of the appeal or proceeding arising out of such order of the corporation.

The apprehension of Mr. Bhattacharya that the order of His Lordship will amount to automatic admission of any proceeding which the applicants choose file before the appellate forum, upon ignoring the laws of limitation, is not acceptable. When Court grants liberty to proceed in accordance with law, it means any proceeding that may be instituted, will be subject to all applicable laws. In any event, no authority or Tribunal or forum will pass orders without hearing the objections of the appellants.

Under such circumstances, the order impugned is not interfered with at this stage. All points are left open, to be decided by His Lordship and the appellants can raise all objections that are available to them, including those that have been raised in the appeal.

With the above clarification, the appeal and the application are disposed of.

(SHAMPA SARKAR, J.)

(AJAY KUMAR GUPTA, J.)