

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/537/2025
MOUSUMI GANGULY
VS
THE MUNICIPAL COMMISSIONER AND ORS.

BEFORE
THE HON'BLE JUSTICE RAJA BASU CHOWDHURY
Date: 22ND JUNE, 2026

Appearance:
Mr. Munshi Ashiq Elahi, Adv.
Ms. Madhurima Sarkar, Adv.
Ms. Urmi Biswas, Adv.
....for the petitioner
Mr. Debjit Mukherjee, Adv.
Ms. Priyanka Jana, Adv.
....for the KMC
Mr. Subhasish Sengupta, Adv.
Ms. Sananda Ganguli, Adv.
...for the private respondent
Mr. Sovan Mukherjee, Adv.
...for the State

1. Pursuant to the directions passed by this Court, municipality has filed in Court today the report dated 13th May, 2026 which is taken on record.
2. The matter pertains to the illegal construction at premises no.9A/2 Pitambar Sarkar Lane, Ward No.76, Borough – IX, Kolkata – 700023. On 4th December, 2025 when this matter was taken up for consideration, this Court was pleased to pass the following order:-

“The Court: 1. The cause in instant writ petition has chequered history. The petitioner had initially complained of unauthorised construction at premises no.9A/2 Pitambar Sarkar Lane, Ward No.76, Borough – IX, Kolkata – 700023. Later a writ petition was filed before this Court which was registered as WPA/27159/2023. By an order dated 12th March 2024 a coordinate Bench of this Court had directed an inspection to be made to ascertain whether the mandatory side open spaces had been maintained at the time of raising construction and spot inspection report was to be circulated amongst the parties. It was, inter alia, further provided that if there was unauthorised construction then remedial steps should be taken to deal with the same in accordance with law.

2. The petitioner would complain that although an inspection was conducted and the report thereof was circulated, enough side open space was not kept. On the basis of the disclosure made by the municipal corporation it would transpire that not only a proceeding was initiated but as per the order passed by the Special Officer (Building) in Demolition Case No.021-D/Br-IX/24-25 dated 13th November 2024, the structure was retained upon payment of fees by, inter alia, observed as follows:

*"Before S. Boral, Special Officer (Bldg.), K.M.C
Demolition Case No. 021-D/Br-IX/ 24-25*

Date of hearing 13.11.2024

*Sub: Demolition Procedure U/s, 400/400(1) & 416 in respect of
Premises No 9A/2, Pitambar Sarkar Lane, Ward No-076, Br-IX*

P.R.- Sunil Kr Manna & Ors

Detail of Unauthorized construction : two storied building has been constructed by deviation from sanction plan. This proceeding was brought against Sunil Kr Manna & Ors by KMC. The allegation against unauthorized construction at Premises No. 9A/2, Pitambar Sarkar Lane, Ward No-076 of Building rule 2009. Relevant Record/Information available with the file - D/Sketch, Précis of infringement statement from Borough Office are taken into consideration.

Notice U/S 400(1) issued on 10/09/2024.

As per report from Concerning Borough-There is no complainant

As per report from Concerning Borough-Infringement statement of Building rule 2009.

Rules Description Provided Permissible Remarks

<i>Rules</i>	<i>Description</i>	<i>Provided</i>	<i>Permissible</i>	<i>Remarks</i>
62	Front Open Space	0.603m	0.6m	<i>infringed</i>
62	Side Open Space – 1	0.750m	0.75m	<i>infringed</i>
62	Side open space – 2	0.302m	1.2m	<i>infringed</i>
62	Rear open space	0.750m	2.0m	<i>infringed</i>
70	Ground Coverage	72.249%	70%	<i>infringed</i>
69	F.A.R	1.3	1	<i>infringed</i>
133	Structural Design	Unknown		
134	Quality of materials & workmanship	Unknown		

Area of total unauthorized construction 29.544sqm.

ORDER

Plan for erected of two storied building has been sanctioned on a plot area of 71.096 sqm. 900mm wide verandah is converted and the area of Bed rooms are increased for need of family.

Structural stability certificate is submitted by Sourabh Roy ESE/II/663.

As stated by P.R. he has right of erection

Considering residential building on small plot of land I am inclined to pass order to retain the structure on payment of fees U/S 400(1)

to be paid within 30 days from the date of communication of order failing which action will be taken by department

D/sketch will be part and parcel of order

Any person aggrieved by this order u/s 400(1) may be appeal against this order to Municipal Building Tribunal within stipulated time in accordance with the provision of KMC act 1980.

*(S. Boral)
(Special Officer Building)"*

3. Although Mr. Banerjee, learned senior advocate representing the private respondent would submit that the aforesaid order which has the sanction of the Mayor-in-Council dated 13th November 2024 should not be interfered with as there is no challenge to the same, however, noting that the inspection that was conducted on 8th March 2025 did not disclose presence of any varandah which as per the order has been converted and the area of the bedrooms had been increased, I am of the view, that this matter requires serious consideration.

4. In view thereof, I direct the municipality to produce the entire records of demolition case before this Court when the matter is taken up next.

5. List this matter in the monthly list of February, 2026."

3. Subsequently on 2nd April, 2026, this Court upon hearing the parties and noting from the report dated 18th March, 2025 issued by the municipality that further construction has been carried out, had directed the municipality to carry out a further inspection headed by Executive Engineer (Civil) and to file a report. It was further made clear by such order that the regularisation order issued by the municipality shall not be deemed to have been given any stamp of approval and on the prayer of the learned advocate for the petitioner, the petitioner was granted liberty to independently challenge the same which has only surfaced in course of the said proceeding, in accordance with law.
4. The learned advocate representing the petitioner would submit that the petitioner is yet to challenge the regularisation order. The subsequent report filed by the municipality in Court today dated 13th May, 2026 does not demonstrate that any new construction has been carried out, the

building standing at the said premises in question is in accordance with the revised sanctioned building plan which was issued by regularising the illegal construction.

5. Having regard to the above, nothing survives in the writ petition. Accordingly, the same is disposed of without any further order.

(RAJA BASU CHOWDHURY, J.)

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