

OD- 6

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE.

WPO/564/2025

SULTAN KHICHI
VS
KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE
THE HON'BLE JUSTICE RAJA BASU CHOWDHURY
Date: 11th May, 2026

Appearance:
Mr. Sanjoy Bose, Adv.
Mr. Priyankar Basu Mallick, Adv.
....for the petitioner
Mr. Sandipan Banerjee, Adv.
Mr. Swapan Kumar Debnath, Adv.
....for the KMC
Mr. Debanik Banerjee, Adv.
Mr. Sidharta Basu, Adv.
Mr. Huzaifa Shahid, Adv.
....for the respondent no.7

1. The present writ petition has been filed in effect seeking implementation of a demolition order dated 30th August 2019 passed by the Special Officer (Building) in demolition case no.112/Br-V/07-08 & 33-D/Br-V/16/17 in respect of the 6th and 7th floor of premises no.66A, Collutalla Street now Maulana Shawet Ali Street, Kolkata – 700 073 (in short 'the said premises').
2. The petitioner claims that the portion of the 5th, 6th and the 7th floor are entirely unauthorised. Notwithstanding the aforesaid and despite the petitioner making complaints, though demolition proceeding was initiated by issuing notice under Section 400(1) of the Kolkata Municipal Corporation Act, 1980, unfortunately, the Special Officer (Building) while disposing of the proceedings, allowed retention of the unauthorised structure upon payment of fees.

3. Challenging the order of retention, a writ petition being WPA 13634 of 2009 was filed. On 9th February, 2010, the Court set aside the retention order. The matter travelled up to the Division Bench, whereupon by an order 18th August, 2010, the Hon'ble Division Bench quashed the regularisation and directed re-examination of the case regarding the 5th floor and above. Pursuant to the aforesaid direction, the Special Officer (Building) had once again reheard the matter, whereupon the order dated 30th August, 2019 was passed.
4. According to Mr. Bose, the construction on the 6th and 7th floors had been directed to be demolished, though the portion of 5th floor was treated to be a minor unauthorised construction and was permitted to be retained by the Special Officer (Building). Mr. Bose would submit that the petitioner is, in fact, an owner in respect of a flat in the 4th floor being no.402 of the said premises and he had purchased the said flat on 8th February, 2007. The petitioner states that according to the disclosure made in the deed of conveyance, the building was constructed vide sanctioned building plan dated 28th January, 1982. Much later, the private respondent illegally and unauthorisedly constructed the 5th, 6th and 7th floors. He submits that notwithstanding the aforesaid illegality ultimately being brought to a close by the municipal authorities vide the order of Special Officer (Building) dated 30th August, 2019, the municipality is yet to take any steps for implementation thereof.
5. The private respondent is represented through Advocate in Court. According to the private respondent though belatedly an appeal has been filed before the Municipal Buildings Tribunal, the appeal is under active consideration before the tribunal. The learned Advocate for the private respondent would

however, while responding to a query from the Court, candidly submit that there is no stay of the order passed by the Special Officer (Building).

6. The municipality is represented and has placed before this Court a report dated 28th April, 2026. According to such report, the municipality has issued fresh notice to the owners and occupiers for demolition of the unauthorised portion in the said premises and the demolition programme is fixed on 12th May, 2026. The report corroborates the petitioner's case as submitted.
7. Having heard the learned Advocates appearing for the respective parties and noting the materials available on record that there is an illegal construction on the 5th, 6th and 7th floors of the premises in question and also noting that though an order of demolition for the 6th and 7th floors has been passed, the same is yet to be implemented. I also note that the private respondent claims that he had preferred an appeal. The learned Advocate for the private respondent has submitted that the appeal is under active consideration before the Tribunal. Unfortunately, there appears to be no stay of the order impugned.
8. Though the petitioner would seek for a direction upon the municipality, to implement its order of demolition, however, since the municipality has now woken from its slumber and as per the report, the municipality has already taken steps to implement the demolition order and a demolition programme has been fixed on 12th May, 2026, there is no scope to issue any further direction at this stage.
9. The writ petition stands, accordingly, disposed of without further order.

(RAJA BASU CHOWDHURY, J.)