

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/783/2025

SAMIR KUMAR SAHA
VS
THE STATE OF WEST BENGAL AND ORS.

BEFORE
THE HON'BLE JUSTICE RAJA BASU CHOWDHURY
Date: 29th January, 2026

Appearance:
Mr. Tonmoy Kr. Dey, Adv.
Mr. S. Chakraborti, Adv.
Mr. Anirban Roy, Adv.
Mr. Rajarshi Mitra, Adv.
...for the petitioner.

Mr. Alok Kumar Ghosh, Adv.
Ms. Susmita Chatterjee, Adv.
...for KMC

1. The affidavit of service filed in Court today is taken on record.
2. The present writ petition has been filed, inter alia, praying for a direction upon the respondent nos. 2 to 4 as also the respondent nos. 5 and 6 to restrain the private respondents from carrying out any illegal constructions at premises No 86, Baithakkhana Road, Police Station – Amherst Street, Kolkata 700 009.
3. The Municipality has placed before this Court a report wherefrom it would transpire that a proposed (G+3) storied residential building has been sanctioned to come up at the aforesaid premises vide plan no. 2022050046 dated 17th March, 2023.
4. As per the above report it would transpire that though at the time of visit at the said premises on 28th January, 2026 it was noted that demolition work was going on, the construction is yet to be started.
5. The petitioner would however contend that the petitioner is a tenant in respect of the aforesaid property and in support of such contention

reliance has been placed on a document dated 2nd August, 1968 issued by the sole Shabeit to the estate of Shri Shir Radha Gopal Jew. The petitioner claims to be making the payment of rent with the Rent controller. According to the learned Advocate for the petitioner, the private respondents had not obtained the consent from the petitioner to construct on the aforesaid property and had obtained the sanctioned plan behind the back of the petitioner by suppression of the above tenancy and that the private respondents are attempting to evict the petitioner.

6. Having heard the learned Advocates appearing for the respective parties, though the private respondents remain unrepresented at the time of call, I am of the view, when a sanctioned building plan has already been issued, it shall be prudent to permit the petitioner to take recourse against such sanctioned building plan if so advised. Ordinarily, a right has accrued in favour of the private respondents to carry out the construction. As such, no interference is called for. However, the above order shall not interfere with the right of the petitioner to take recourse against the sanctioned building plan in accordance with law, if so advised.
7. The writ petition, accordingly, stands dismissed.

(RAJA BASU CHOWDHURY, J.)