

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APO/85/2025
IA NO:GA/1/2025
BHAGWATDAS JAISWAL
-VS-
THE KOLKATA MUNICIPAL CORPORATION AND ORS

BEFORE:
The Hon'ble JUSTICE RAJASEKHAR MANTHA
And
The Hon'ble JUSTICE AJAY KUMAR GUPTA
Date:06.01.2026.

Mr. B. Mukherjee, Adv.; Mr. R. Karnani, Adv.; Ms. S. Ghosh Basu, Adv., for appellant.
Mr. A.K. Ghosh, Adv.; Mr. G.C. Das, Adv., for KMC.
Mr. S. Roy, Adv.; Mr. D. Majumdar, Adv., for R-7-15.
Mr. B. Bhattacharjee, Adv.; Mr. S.N. Poddar, Adv., for R-16-17.
Mr. B.R. Bhattacharjee, Sr. Adv.; Mr. S. Majumdar, Sr. Adv.; Mr. S. Mukhopadhyay,
Adv.; Mr. K. Saha, Adv.; Mr. A. Ghosh, Adv., for R-18-19.

1. The Court: The appeal is directed against the judgment and order dated November 6, 2025, passed by the Single Bench of this Court.
2. The subject matter of the instant writ petition is running of a garment shop at a place where once existed a cinema hall called 'Paradise Cinema' in the city of Kolkata.
3. The cinema hall has been closed since the year 2020. The permission granted by the KMC was for running of a cinema hall and allied business.

4. Since early 2024, a garment shop is being run by the private respondents at the said place. The petitioner has enclosed documents of the KMC, inter alia, being a decision of the Special Officer (Building) declining conversion of user of the said premises from a cinema hall to a garment shop. The said decision was approved and confirmed by the Mayor in Council.
5. When the writ petition was moved before the Single Bench, reference was made to an order passed by a coordinate Bench, dated May 22, 2025, which arose out of writ petition being WPO/284/2025. The decision of the coordinate Bench dated May 22, 2025 states in no uncertain terms that the subject matter of the said writ petition was a fire service clearance for the said premises from the concerned authorities of the State.
6. It further transpires from the said order dated May 22, 2025 that the fire service clearance granted by the Fire Services Authority, was subject to change of user of the said premises being permitted by the KMC. Admittedly, the KMC has not permitted such conversion or change of user.
7. This Court could have decided the matter and passed orders. This would have resulted in loss of forum to either of the parties.
8. It appears that the matter was adjourned before the Single Bench twice due to pendency of the special leave petition filed against the order dated May 22, 2025(supra). Since this Court has clarified that the said proceeding leading to the special leave petition has nothing to do with the instant proceeding, the Single Bench may proceed to decide the instant writ petition and also decide whether the facts warrant passing of any interim order in the instant case.

9. The maintainability of the writ petition at the instance of the writ petitioner may also be considered by the Single Bench.
10. Needless to mention, except to the extent of the finding of this Court that the subject matter of the special leave petition should not stand in the way of consideration of the prayer for interim relief in the writ petition, the Single Bench shall proceed in the matter, uninfluenced by any observation made by this Court and shall take an independent decision in this matter.
11. With the aforesaid observations, the appeal being APO/85/2025 along with the connected application stands disposed of. There shall be no order as to costs.

(RAJASEKHAR MANTHA, J.)

(AJAY KUMAR GUPTA, J.)

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