OD-10

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/877/2025

FALAHUDDIN HAIDER
VS
THE KOLKATA MUNICIPAL CORPORATION & OTHERS

BEFORE:
THE HON'BLE JUSTICE RAJA BASU CHOWDHURY
Date: 01st October, 2026

Appearance:
Mr. Gotam Sardar, Adv.
Mr. Shankha Shubhra Mukherjee, Adv.
Ms. Barnali Saha, Adv.
...For the Petitioner

Mr. Biswajit Mukherjee, Adv.
Ms. Gulnaz Quraishi, Adv.
Ms. Depanwita Ganguly, Adv.
...For KMC

Mr. Rajdeep Mantha, Adv.
Mr. Aayush Sharma, Adv.
...For the Respondent no.5

1. The writ petition has been filed complaining construction of a building by the respondent no.5, without adhering to the sanctioned building plan.
2. On 4th February, 2026, this Court noting the submissions made, directed the Municipality to file a report.

3. Pursuant to the aforesaid direction, the Municipality has filed a report, which is counter-signed by the Executive Engineer (C)/Bldg./Br-IX, dated 29th September, 2026.
4. A perusal of the aforesaid report would demonstrate that as per available records premises no. 8A, Paddapukur Square, P.S. Watgunge, Ward no. 76, Kolkata – 700023, has a sanctioned building plan of a G+III storied building vide Building Permit dated 18th August, 2010.
5. In course of inspection, it was also noted that though the premises comprising of a G+3 storied building is existing at the locale and the same is occupied, the mandatory open space in terms of the sanctioned building plan has however, not been maintained for which the municipality is contemplating proceeding under Section 400 of the Kolkata Municipal Corporation Act, 1980 (in short, the said Act).
6. Having regard to the aforesaid disclosure and though, the learned Advocate for the respondent no.5 would submit that previously respondent no.5 has been exonerated of the charges under Section 401A of the said Act, by a judgment and order passed by the Court of the Senior Municipal Magistrate, Calcutta on 3rd December, 2015, I am of the view that exoneration of any particular person from a charge under Section 401A of the said Act cannot be deemed to have authorized illegal construction carried out at the locale.
7. In the facts noted above and also noting that the Municipality by its report dated 29th September, 2026 has returned the finding that the construction carried out by the respondent no.5 is not in accordance

with the sanctioned building plan, appropriate proceedings under the provisions of Section 400 of the Kolkata Municipal Corporation Act, 1980 (hereinafter referred to as the "said Act") be initiated by the Municipality and let the same be brought to the logical conclusion on expeditious basis, preferably within a period of 12(twelve) weeks from the date of communication of this order. This Court has however not expressed any opinion as regards the extent of the illegal construction or whether the respondent no.5 is eligible to the benefit of the statutory provision.

8. The writ petition is thus disposed of.

(RAJA BASU CHOWDHURY, J.)

SN/JM