

OD-03

IA No: GA/1/2025
WPO/1216/2024
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION

Sarada Niketan Private Limited & Anr.
Versus
Kolkata Municipal Corporation & Ors.

Before:
The Hon'ble Justice RAJA BASU CHOWDHURY
Date: 19th January 2026

Appearance:
Mr. Sukrit Mukherjee, Advocate
Mr. Dyutimoy Paul, Advocate
Mr. Sandull Abedin, Advocate
Ms. Pooja Singh, Advocate
for the petitioners

Mr. Vimal Kr. Shahi, Advocate
Ms. Golnaz Quraishi, Advocate
for the KMC

Mr. Syed Nurul Arefin, Advocate
Mr. R. Singh, Advocate
for the respondent nos. 4 to 7

The Court: **IA No: GA/1/2025:** 1. Although the original writ petition was filed complaining illegal construction, this Court by an order dated 26th February 2026, noting that there is no scope of passing any interim order in the light of the stand taken by the Corporation that no construction was going on at that stage at the relevant location, directed the parties to file affidavits. The affidavits-in-opposition to the main writ

petitioner have since been filed this day and the same are taken on record.

2. The learned advocate appearing for the petitioners has now come up with a fresh application being IA No: GA/1/2025 alleging in paragraph 9 of the application that on the basis of the enquiries made it would transpire that a G+4 storeyed building is standing on the southern portion of the property. He would insist that this Court should grant an interim order in the matter by directing the Corporation to carry out an inspection and file a report.

3. Having heard the learned advocates appearing for the respective parties I am of the view that though the aforesaid statement in paragraph 9 has been affirmed as true to the knowledge, the basis of such knowledge has not been disclosed. Although, the petitioner claims that it has caused enquiries, there is no statement that any illegal construction is being carried out at present. Further the writ petition is ready for hearing.

4. In the light of the above, I am of the view that there is no scope to entertain the application, especially when there is no change of circumstances. The application being IA No: GA/1/2025 stands rejected.

WPO/1216/2024: 5. By consent of the parties the writ petition itself is taken up for consideration.

6. This writ petition has been filed, inter alia, praying for a direction upon the municipal authorities to take necessary steps for demolition of the illegal structure and/or the additional floors

constructed on the existing three storeyed building situated in the southern/front portion of the premises no.10, Middleton Street, Kolkata – 700 071. The municipal authorities have filed a report which has been enclosed with the affidavit-in-opposition. From such report it would transpire as follows:

“In respect to received complain dt. 24/10/24 regarding commencement of unauthorised construction of extra floor against the captioned premises received by this department. Accordingly an inspection at the captioned premises was conducted and found that it is a IV storied Building. At the time of inspection no construction work is going on. As per online portal of assessment department the building is IV storied building as per IB record of 3rd qtr 2013-14.”

7. Incidentally, the above report would demonstrate that there is a four-storeyed building standing at the locale. Though the report identifies that the construction is as per IB record, it does not identify whether there is any sanction building plan in respect of the aforesaid property. The report filed by the municipal authorities has not shown any light whether any additional construction has been carried out in the said property.

8. According to the learned advocate appearing for the private respondents, one Ashima Rani Paul had obtained a sanction building plan sometime in the year 1982 and had constructed the four-storeyed building on the property in question. Later a long term lease was executed in favour of the respondent nos. 4 to 7 on the terms and

conditions mentioned in the said lease. Although, the learned advocate appearing on behalf of the private respondents would submit that the construction that was made was as per the sanction building plan, no document to substantiate the same has been produced. No copy of the sanction building plan has also been disclosed.

9. In the light of the above, I am of the view that considering the facts noted hereinabove and the allegation made out in the writ petition it would be prudent, at this stage, to remand the matter back to the municipal authorities, for the municipal authorities to take a decision on the basis of the complaint made by the petitioners by giving an opportunity of hearing and by carrying out a fresh inspection upon notice to the interested parties. Though the petitioners may be notified of such inspection, the petitioners may not be invited for the same. The report thereof may be circulated to the parties. The parties shall be at liberty to make submissions on the basis of the inspection report and the municipal authorities shall thereafter decide the complaint. The municipal authorities shall also take into consideration any documents relied on by the private respondents including the sanction building plan, if any. The decision must be taken by the municipal authorities and communicated to the parties within a period of four weeks from the date of communication of this order.

10. If on the basis of such inspection and decision to be taken any illegal construction is found, appropriate steps shall be taken by the municipal authorities. On the contrary, if no illegal construction has

taken place the matter need not be proceeded further. The entire process shall be concluded within sixteen weeks from the date of communication of this order.

11. The writ petition is accordingly disposed of.

(RAJA BASU CHOWDHURY, J.)

R. Bose