

OD- 10

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/921/2025

KAZI HANNAN ALI
VS
KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE
THE HON'BLE JUSTICE RAJA BASU CHOWDHURY
Date: 5th February, 2026

Appearance:
Ms. Pusmita Das, Adv.
....for the petitioner
Mr. Nilotpal Chatterjee, Adv.
Ms. Manisha Nath, Adv.
....for the KMC
Ms. Sangeeta Roy, Adv.
....for the State
Mr. P. Singh, Adv.
Mr. Sarbojit Singh Adv.
....for the respondent no.9

1. The present writ petition has been filed, inter alia, alleging unauthorised and illegal construction at premises no.14/3, Sudder Street, Police Station – New Market, Kolkata – 700 087 (hereinafter referred to as 'the said premises').
2. The petitioner also claims that the aforesaid construction which has come up at the above premises is dangerous. It is the petitioner's case that in or around November, 2021, the private respondent no.9, who the petitioner claims to be the owner in respect of the above premises, had approached the petitioner with a proposal to construct the first and second floor of the building situated at the above premises. The respondent no.9 also offered to pay the petitioner a sum of Rs 1,00,07,000/- only, in multiple instalments for executing the construction work. According to the petitioner, a construction agreement was also executed between the parties and the petitioner, while complying with the request of the respondent no.9, had obtained sanctioned building plan for the first and second floor of the premises on 20th May, 2024. Since then, despite repeated requests to the private respondent no.9 to make the initial payment of Rs 10 lakh, which

had already been invested by the petitioner, the respondent no.9 failed to do so. Subsequently, the petitioner has come to learn that a construction at the said premises is going on in deviation of the sanctioned building plan. In the circumstances, the petitioner had caused a complaint to be lodged with the municipal authorities on 17th November, 2025 and on 6th December, 2025.

3. The municipality is represented. Mr. Chatterjee, learned Advocate representing the municipality has placed before this Court a report dated 6th January, 2026 and would submit that pursuant to the complaints made, an inspection was carried out whereupon it was detected that the person responsible, constructed three storied RCC structure encroaching open spaces, in deviation of the sanctioned plan. Accordingly, a notice under section 401 of the Kolkata Municipal Corporation Act, 1980 (hereinafter referred to as 'the said Act') has been issued.
4. The private respondent is represented. It is submitted by the private respondent that the construction has been done in accordance with the sanctioned building plan and there is no deviation. It is also submitted by the private respondent that although, an agreement was entered into with the petitioner, the petitioner did not carry out any work and ultimately, it is the private respondent who had obtained the sanctioned building plan and on the basis of the above sanctioned building plan, the construction work has been carried out.
5. Having heard the learned Advocates appearing for the respective parties and having considered the materials on record, I find that the petitioner claims to have entered into an agreement with the respondent no.9. No copy of the aforesaid agreement has, however, been disclosed. It is also not known how the petitioner had obtained the sanctioned building plan without the power of attorney being executed by the respondent no.9.

6. Be that as it may, coming back to the issue of illegal construction, since it is noted from the report filed by the municipality that the construction that is coming up at the aforesaid premises is in deviation of the sanctioned building plan and a notice under section 401 of the said Act has already been issued, in my view, it will only be prudent at this stage to direct the municipality to bring the proceeding initiated by them to a logical conclusion as expeditiously as possible, preferably within a period of ten (10) weeks from the date of communication of this order.
7. Since no affidavit has been called for, the allegations made in the petition are deemed not to have been admitted by the respondents.
8. It is also made clear that the Court has not gone into the merits of the allegations, and it shall be open to the municipality to decide the same without being influenced by any of the observations made herein.
9. With the above observation and direction, the writ petition stands disposed of.

(RAJA BASU CHOWDHURY, J.)