

Sl.13 & 58
10.08.2026
Court No.6
BP

C.O. 2546 of 2026

Smt. Lily Bhuiya
-versus-
The Municipal Commissioner, Kolkata
Municipal Corporation & Ors.

and

C.O. 2051 of 2026

Ajoy Kumar Shaw & Anr.
-versus-
Lily Bhuiya & Ors.

Mr. Debnath Ganguly
Mr. Aranya Saha
Mr. Supriyo Dutta
..for the petitioner in
C.O. 2546 of 2026 and
for the opposite party in
C.O. 2051 of 2026

Mr. Rahul Karmakar
Mr. Soumojit Saha
..for the petitioners
in C.O. 2051 of 2026 and
for the opposite party in
C.O. 2546 of 2026

Mr. Debjit Mukherjee
Ms. Susmita Chatterjee
...for KMC

C.O. 2051 of 2026 is at the instance of the person responsible challenging the order of the Municipal Building Tribunal dated May 15, 2026 in B.T. Appeal No. 158 of 2023. The aforesaid order has been challenged by the complainant in C.O. 2546 of 2026.

Since the order dated May 15, 2006 has been challenged by the private parties in the aforesaid civil revision applications, the same are taken up for hearing

analogously as common question of law and fact are involved.

The learned advocate appearing for the complainant submits that the learned Tribunal failed to appreciate that the demolition sketch plan is an erroneous one and the same is bad in law. He submits that apart from the portions shown as illegal and unauthorised in the demolition sketch plan there are other areas which are illegal and unauthorised which should also be demolished. He, thus, submits that the demolition sketch plan is required to be set aside and a fresh proceeding is to be initiated.

Mr. Karmakar, learned advocate appearing for the person responsible submits that the demolition sketch plan was prepared and since the plot of land upon which the impugned construction stands is a small plot the Special Officer (Building) allowed retention of the construction which was found to be unauthorised as per the D-Sketch plan. He submits that since the person responsible has submitted the Structural Stability Certificate and the structure is otherwise found to be stable by the Special Officer (Building), the learned Tribunal ought not to have directed demolition of the said structure.

Mr. Mukherjee, learned advocate assisted by Ms. Susmita Chatterjee represents the Kolkata Municipal Corporation in C.O. 2051 of 2026. However, none appears

for the Kolkata Municipal Corporation in C.O. 2546 of 2026.

Since identical questions of fact and law are involved in these civil revisional applications and the self same order is under challenge in the civil revisional applications, this Court directs Mr. Mukherjee, to appear in this matter for the Kolkata Municipal Corporation. Let the appointment of Mr. Mukherjee along with Ms. Susmita Chatterjee be regularized by the concerned authority in C.O. 2546 of 2026.

Mr. Mukherjee, learned advocate for the Kolkata Municipal Corporation submits that the learned Tribunal after specifically recording the infringements of the relevant building rules have passed an order of demolition. He thus submits that such order should not be interfered with by this Court in exercise of power under Article 227 of the Constitution of India.

From the order passed by the Special Officer (Building), this Court finds that the Structural Stability Certificate submitted by one Suddhasil Bhaumik LBS was considered. The Municipal Building Tribunal has recorded a finding that from the structural safety point of view it is found that the columns, beams position have been changed due to deviation it poses danger to human life and property. However, the Structural Stability Certificate given by the concerned LBS, which is a relevant piece of evidence has not been taken into consideration by the Municipal

Building Tribunal. That apart, the learned advocate appearing for the complainant in course of hearing of this civil revisional application has pointed out that there are several discrepancies in the Demolition Sketch plan. If that be so, the issue that would arise is whether an effective decision on the issue of demolition could have been taken on the basis of such Demolition Sketch Plan.

Since various factual and legal issues are involved and it appears that those have not been considered by the Building Tribunal, this Court is inclined to remit the matter to the Municipal Building Tribunal for a fresh decision.

Accordingly, the order of the Municipal Building Tribunal dated May 15, 2026 in B.T. Appeal No.158 of 2023 is set aside and quashed. The said appeal stands restored to the file of the Municipal Building Tribunal and the Municipal Building Tribunal, Kolkata Municipal Corporation is requested to decide the B.T. Appeal No. 158 of 2023 afresh and in accordance with law after affording an opportunity of hearing to the respective parties and dispose of the same by passing a reasoned order as expeditiously as possible but positively on or before November 12, 2026.

All points are left open to be considered and decided by the Municipal Building Tribunal in accordance with law.

With the above observations, C.O. C.O. 2546 of 2026 and C.O. 2051 of 2026 stand disposed of.

There shall be, however, no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)