

IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
ORIGINAL SIDE

WPO/162/2026

SUDHA YADAV & ANR.  
VS  
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE  
THE HON'BLE JUSTICE RAJA BASU CHOWDHURY  
Date: 20<sup>th</sup> April, 2026

Appearance:  
Mr. Arif Ali, Adv.  
Mr. Sarban Bhattacharjee, Adv.  
....for the petitioners  
Mr. Ranajit Chatterjee, Adv.  
Ms. Manisha Nath, Adv.  
....for the KMC  
Mr. Indrajit Sen, Adv.  
Mr. S. Medda, Adv.  
Ms. Indralina Sen, Adv.  
...for the respondent nos.10 & 11

1. The present writ petition has been filed, inter alia, complaining illegal construction at the behest of the private respondent nos.9 and 10.
2. The petitioners claim to be the owner in respect of a flat at premises no.6/1/1E, Swinhoe Street, Kolkata – 700 019 now renamed as Anil Maitra Road, Kolkata. The petitioners would complain that the private respondents had initially illegally constructed an additional floor beyond the second floor of the building standing on the aforesaid premises. The petitioners were kept in the dark as regards the same and were not aware that the construction was without the sanction of the municipal authorities. Later, the municipal authorities have regularised the aforesaid illegal construction. The private respondents did not stop there. A further additional construction on the roof of the third floor has been undertaken by the private respondents by placing reliance on the office Circular No.9 of

2013-14 dated 30<sup>th</sup> December, 2013 and the addendum dated 4<sup>th</sup> January, 2014. According to the Advocate for the petitioners, since the third floor itself is irregular, no additional construction could have been permitted.

3. The private respondent nos.9 and 10 are represented. According to the private respondents, the private respondents upon purchasing the roof of the second floor claim to have constructed on the said property and hold out with pride that the said portion has been regularised by the municipal authorities. It is also the private respondents' case that the private respondents have also disposed of the said portion in favour of the respondent no.11 and are no longer responsible for their act.
4. The municipality is represented. Mr. Chatterjee, learned Advocate representing the municipality would submit that the municipality has recently taken note of the illegalities committed and certain steps have been taken though he is not aware as to the exact steps taken by the municipal authorities.
5. Noting the case made out, I find the situation that is prevailing at present is alarming. One illegality after another is being committed. In the instant case, I find that the municipality has already regularised the third floor portion. The petitioners would submit that the aforesaid regularisation has been made without giving any notice to the petitioners who are the co-owners of the above premises.
6. Though the aforesaid is sufficient to vitiate the order, however, noting that the above order is an appealable order and the petitioners' case is yet to be tested out, though time to file such appeal has long expired, I am of the view, in the given facts if the petitioners are interested to challenge such order, the petitioners must approach the appellate authority. If such appeal

is filed within a period of one month from the date, the appellate authority shall, having regard to the peculiar facts, accept such appeal and decide the same on merits. In so far as the additional illegal construction undertaken on the rooftop of the building in question, and the allegation of denial of access of the overhead tank are concerned, the respondent nos.4 and 6 are directed to file a report in the matter when the matter is taken up next.

7. List this matter under the same heading in the monthly list of June, 2026.
8. It is, however, made clear that inspection in this regard must be carried out by the concerned authorities within a period of seven working days from the date of communication of this and if any illegal construction is noted, the authorities are directed to take immediate steps notwithstanding the pendency of the present writ petition.

(RAJA BASU CHOWDHURY, J.)