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Ct.3.

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 11256 of 2026

Md. Nisar Ahmed & Ors.
Versus
The State of West Bengal & Ors.

Mr. Bikas Ranjan Bhattacharyya, Sr. Advocate
Mr. Uday Sankar Chatterjee
Mr. Samim Ahmed
Mr. Syed Chandan Hossain
Mr. Debashis Banerjee
Mr. Rahil Rahman
Ms. Gulsonwara Pervin
Ms. Saloni Bhattacharya
Mr. Nazir Ahmed
Mr. Rajesh Jana

... For the petitioners.

Mr. Joydeep Kar, Sr. Advocate
Mr. Bilwadal Bhattacharya, Sr. Advocate
Mr. Nilotpal Chatterjee
Ms. Piyali Sengupta
...For Kolkata Municipal Corporation.

Mr. Dhiraj Trivedi, Sr. Advocate
Mr. Bikash Kumar Singh
Ms. Swapna Jha
... For the respondent nos.2, 3,4 and 9

1. Affidavit of service filed in Court is taken on record.
2. The present writ petition has been filed by the petitioners claiming to be the residents of Premises No. 50/1/D/1, Golam Jilani Khan Road, Police Station – Tiljala, Kolkata – 700039, (hereinafter referred to as the “said premises”).
3. The petitioners also claim that the said premises presently consists of a ground plus four storied building,

each floors measuring approximately 1800 square feet. According to the petitioners, the ground floor of the said premises was being utilized for carrying out leather goods manufacturing business under the name and style of M/s Delta Leather Corporation, a partnership firm comprising the petitioner no.1 and his two sons. The upper floors of the building were exclusively used for residential purpose wherein the petitioners and their family members reside together, including women and minor children.

4. The petitioners state that on 12th May, 2026 between 1.00 P.M. and 2.00 P.M. an unfortunate fire incident broke out in the factory portion at the ground floor. According to the petitioners five workers who were working suffered injuries in the said incident and were rushed to the Chittaranjan National Medical College and Hospital for treatment. Out of the aforesaid, two of the workers unfortunately succumbed to their injuries and were declared dead and three other workers are presently undergoing medical treatment.

5. The petitioners have approached this Court complaining over action on the part of the municipal authorities in carrying out demolition proceedings at the said premises, on 13th May, 2026 through the heavy machinery belonging to or requisitioned through Kolkata Metropolitan Development Authority.

6. Mr. Bhattacharyya, learned senior advocate appearing for the petitioners would submit that the manner in which the demolition has been carried out is

unknown in law. According to him, no notice of demolition was served on the petitioners. By placing reliance on the provisions of Section 400 of the Kolkata Municipal Corporation Act, 1980 (hereinafter referred to as the "said Act") he would submit that ordinarily no demolition can take place without service of prior notice, in accordance with the statutory provision provided therefor. In any event, an order under sub-section (8) of Section 400 of the said Act also requires to be enforced in the manner provided for in the Act. Unfortunately, in the instant case, according to Mr. Bhattacharyya, the entire demolition proceeding has been initiated on the basis of a dictation. In support of his contention he has placed reliance on an order dated 12th May, 2026 issued by the Chief Secretary for the State. In the circumstances as aforesaid, he submits that the respondents should be restrained from carrying out further demolition work pending final disposal of the writ petition. In support of his contention he has placed reliance on the judgment delivered by the Hon'ble Supreme Court in the case of ***Directions in the matter of Demolition of Structures, in Re***, reported in **(2025) 5 SCC 1**. He also prays for a direction to restore electricity and water connection which have been disconnected to the said premises.

7. Mr. Kar, learned senior advocate appears for the Kolkata Municipal Corporation. He would submit that the building in question is entirely unauthorized. There is no sanctioned building plan in respect of the aforesaid

building. According to him, though permission has been issued by the Government for running a factory, in terms of the direction passed by the Hon'ble Supreme Court in the case of ***M.C. Mehta (Calcutta Tanneries' Matter) v. Union of India***, reported in **(1997) 2 SCC 411**, after 30th September, 1997, no tanneries can be permitted to function from the aforesaid area where the factory premises of the petitioners is situated. He would submit that since the petitioners did not have any authorization to run the business, the municipal authorities have taken steps in the matter. According to him, a notice under Section 400(1) of the said Act has already been issued on 12th May, 2026 which was followed by a notice dated 13th May, 2026 issued under Section 412(2) of the said Act. It is submitted that the municipal authorities are following the process of law. Proceedings have already been initiated to deal with the unauthorised construction.

8. Mr. Trivedi, learned senior advocate appears for the police authorities and the Kolkata Metropolitan Development Authority. He would submit that presently there is no sanction issued by the Pollution Control Board for the petitioners to run the factory premises. According to him, it is obligation of the State to ensure the protection of the inmates of the premises in question and as such the authorities are taking pre-emptive measures.

9. Having heard the learned advocates appearing for the respective parties, I find that though the petitioners would complain over action on the part of the municipal

authorities, there has been no disclosure made by the petitioners in the present petition as to whether the building in question has any sanction from the municipality, though at this stage it may be noted that Mr. Bhattacharyya had submitted that all documents belonging to the petitioners had been destroyed in fire.

10. Be that as it may, since the municipal authorities have issued notices under Section 400(1) and 412(2) of the said Act, ordinarily, no demolition programme can take place contrary to the provisions of the law. At the same time, I must also note that having regard to the judgment delivered in the case of ***M.C. Mehta (Calcutta Tanneries' Matter)*** (supra), though the petitioners possesses factory licence, the petitioners cannot under any circumstances be permitted to run the tannery especially having regard to the mandate issued by the Hon'ble Supreme Court. The licence issued by the State to the extent the same runs counter to the directives of the Hon'ble Supreme Court, cannot authorize continuation of any business from the said premises. This apart, the petitioners have also not disclosed any other documents to substantiate that any business were being run from the said premises. No authorization from the Pollution Control Board, fire authorities and other statutory authorities have been disclosed.

11. Having regard thereto, and noting the incident of fire and the unfortunate death of two workers engaged by the petitioners, it is only appropriate that no business is

permitted to be run from the said premises for the time being till further orders of this Court.

12. This order shall not stand in the way of the municipal authorities from taking appropriate action under the provisions of the said Act. This order also does not authorize or give authority to any individual to continue with any illegal construction or business contrary to the provisions of law.

13. This order shall however, not impinge upon the rights of the State to take appropriate action in accordance with law, if so advised.

14. Leave is granted to the petitioners to file a supplementary affidavit disclosing additional facts and supporting documents. The petitioners are also directed to disclose the title deed, sanction plan and/or statutory licence, authorising the petitioners to run the business from the said premises.

15. Considering the *prima facie* case made out, there shall be an order of *status quo*. The petitioners are also restrained from making any improvement and/or restoring the building to its original position. It is also made clear if any portions of the building have already become dangerous, the municipal authorities in consultation with the petitioners shall remove such dangerous portion however, barring the same no further demolition shall take place without leave of this Court.

16. Let this matter appear for further consideration under the same heading on 22nd June, 2026, when the respondents shall file a report.

(Raja Basu Chowdhury, J.)