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Ct.3.

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 11655 of 2026

Indradevi Sonkar
Versus
Howrah Municipal Corporation & Ors.

Mr. Subhrangsu Panda
Mr. Sumitava Chakraborty (VC)
Ms. Bratati Pramanick
... For the petitioner.

Mr. Sandipan Banerjee
Mr. Ankit Sureka
... For Howrah Municipal Corporation.

Mr. Nilanjan Bhattacharya
Mr. Debashis Basu
Mr. Arun Bandyopadhyay
.... For the State.

1. This matter was moved challenging the demolition proceedings initiated by the Howrah Municipal Corporation, which was scheduled on 20th May, 2026.

2. The petitioner claims to be a resident of Premises No. 60, M.C. Ghosh Lane, Ward No.19, Howrah. The petitioner claims that she was originally a tenant in respect of the aforesaid premises under one Abhay Narayan Shaw who later sold the property to the respondent no.7. The respondent no.7 had since been collecting rent. In the year 2021 on the basis of an agreement between the petitioner and the respondent no.7 and the other tenants, the petitioner had temporarily vacated her tenanted portion for the developer, being the respondent no.8, to demolish the existing construction for

the purpose of constructing a new building. Subsequently, the petitioner was rehabilitated on the 5th floor of the newly constructed building in the year 2025 and has been residing thereat since then. The said portion is now under the threat of demolition.

3. The municipality has filed a report dated 20th May, 2026, wherefrom it would transpire that the building constructed on the said premises is a G+5 storied building though sanction was granted upto G+3 level and the construction has been made with deviation from sanctioned plan, and extra two floors i.e., 4th and 5th floors have been constructed which are completely unauthorized.

4. Upon going through the materials on record since it transpires that the floor where the petitioner is residing is completely unauthorized, I am of the view, there is no scope to restrain the municipality from demolishing the unauthorized portion. However, considering the undertaking in the form of supplementary affidavit filed by the petitioner in Court today, which is taken on record, it appears that the petitioner has undertaken to remove her belongings from her occupied portion within a period of one month from date, I am of the view, it shall be just and appropriate for this Court to permit the petitioner some more time, at least, the time as prayed for by the petitioner in the affidavit affirmed by her on 22nd May, 2026, to retain occupation of the occupied portion. The petitioner thus must identify her occupied portion to the

municipality. For the said purpose an inspection may be carried out and the same may be minuted by the municipality with the petitioner's signature.

5. At the same time, the illegality committed by the respondent no.7, in allotting the unauthorizedly constructed portion to the petitioner by way of rehabilitating an erstwhile tenant cannot be overlooked by this Court.

6. This Court is conscious of the fact that it is very difficult for an individual to obtain a residential accommodation in the heart of a city like Howrah. Right to life also includes right of basic necessity in the form of shelter. The right to shelter is one of the facets of Article 21 as observed in the case of ***In Re: Directions In The Matter of Demolition of Structures***, reported in **(2025) 5 SCC 1**. The manner in which the private respondents had dealt with the petitioner speaks volumes of the mala fide conduct.

7. Considering the direction issued on 17th July, 2025 by the Hon'ble Division Bench in the case of ***Bijay Kumar Shaw & Ors. v. Howrah Municipal Corporation & Ors., in MAT 996 of 2025***, I find that it is a fit case where the respondent nos.7 and 8 should be directed at the first instance to relocate the petitioner to a separate residence commensurate with the present occupancy of the petitioner, however, the reallocation must be at a place which is otherwise authorizedly constructed. The liability for the reallocation must be borne by both the respondent nos. 7 and 8 who happen to

be the landlord and the developer, and had carried out the illegal construction.

8. Since, despite notice, the respondent nos.7 and 8 have failed to cause appearance before this Court, the Officer-in-Charge of the concerned police station, being the respondent no.6 is directed to ensure the presence of the aforesaid respondents before this Court when the matter is taken up next.

9. Till the next date of hearing, having regard to the undertaking given by the petitioner, as and by way of an interim measure, the municipality shall not take any further action insofar as the petitioner's portion is concerned.

10. The development agreement and the power of attorney as placed before this Court by the petitioner in Court today is taken on record.

11. Let this matter appear for further consideration under the same heading on 17th June, 2026 at 2.P.M.

(Raja Basu Chowdhury, J.)