

Form No.J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present :

The Hon'ble Justice Raja Basu Chowdhury

**WPA 11324 of 2026
With
CAN 1 of 2026**

**S. M. Farooque Bhati
Versus
Kolkata Municipal Corporation & Ors.**

For the petitioner : Mr. Raghunath Chakraborty
Mr. Subharangsu Panda
Ms. Haritri Roy
Mr. Anupam Singha

For the Kolkata : Mr. Biswajit Mukherjee
Municipal Corporation : Mrs. Sima Chakraborty

For the intervenor/ : Mr. Bikash Kumar Singh
Added respondents : Ms. Divyarshi Shaw

Heard on : 25.06.2026 & 03.08.2026

Judgment on : 03.08.2026

Raja Basu Chowdhury, J (Oral):

1. Challenging the order dated 5th January, 2026, passed by the Director General (Building), Kolkata Municipal Corporation, the instant writ petition has been filed.
2. Mr. Chakraborty, learned advocate appearing in support of the writ petition would submit that it is at the instance of the petitioner

that the above order was passed. He has drawn the attention of this Court to the order dated 13th June, 2025 passed in WPA 25680 of 2024 and would submit that the petitioner being aggrieved by the amalgamation of Premises No. 92A Jamunalal Bajaj Street (formerly Premises Nos. 92A and 92B, Jamunalal Bajaj Street, Ward No. 42, Division XV, Barabazar, Kolkata-700007) under the jurisdiction of the Kolkata Municipal Corporation, had previously approached this Court.

3. A Coordinate Bench of this Court taking note of the representation made by the petitioner which was then pending before the municipal authorities, by order dated 13th June, 2025 had directed the municipal authorities to decide on such representation.

4. Pursuant to the above direction passed by this Court, the matter was heard by the Director General (Building), Kolkata Municipal Corporation. In course of hearing, the petitioner who claims to be the owner in respect of premises no. 92C Jamunalal Bajaj Street, which is at the back side of Premises Nos. 92A and 92B, Jamunalal Bajaj Street, the plot in question, had submitted several papers and documents to establish that there is a common passage which is used by the petitioner apart from the Premises No. 92A and 92B, Jamunalal Bajaj Street. As would appear from the above the petitioner tried to establish that the said passage is a common passage, not only meant to cater to premises no. 92A and 92B, Jamunalal Bajaj Street, but also to the premises no. 92C, Jamunalal Bajaj Street.

5. Records would reveal that the same was contested by the owners of 92A and 92B, Jamunalal Bajaj Street, and it was represented on their behalf that 92C, Jamunalal Bajaj Street at the back side of the plot has its access from 100 ft. wide road (Brabourne Road) and not from the said passage which the petitioner is trying to establish. The municipal authorities having heard the parties returned the finding that the passage which the petitioner is claiming, is actually the passage used by the stall owners of premises no. 92A, and 92B, Jamunalal Bajaj Street and also by the purchaser to the said stall during working hours which is reflected in the inspection book records of Assessment Department. It may be noted that the contesting respondents had also disclosed the registered deeds executed in 1968, 1978 of the subject premises to demonstrate 92B, Jamunalal Bajaj Street has an area of 1 Cottah, 4 Chatak and 11 sq. ft. while premises no. 92A, Jamunalal Bajaj Street has an area of 2 Cottah, 5 Chatak 34 sq.ft. If the area as per the deeds are summed up, the same adds up to 3 Cottah, 9 Chatak and 45 sq. ft., however, on the basis of the actual physical measurement the total area comes to 3 Cottah, 7 Chatak and 42 sq. ft. which is 2517 sq. ft. and in less than the summation of the total area as per the original registered deeds.

6. On the basis of the disclosure made and noting that the property was amalgamated from the first quarter of 1989-90 with the area equal to the total sum of all the areas in the registered deeds executed on 1968 and 1978, it was observed that the petitioner's claim that access

to premises no. 92C, Jamunalal Bajaj Street is through the above passage is not correct, it has got separate access from 100 ft. wide entry from Brabourne Road which is also being reflected by the Surveyor Observation Report (SOR) of the Kolkata Municipal Corporation. Accordingly, on the basis of the representation and upon hearing the parties, following observations were noted:-

“1. Premises Nos. 92A, Jamunalal Bajaj Street & 92B, Jamunalal Bajaj Street has been amalgamated by Assessment Department of Kolkata Municipal Corporation (KMC). The present Premises No. is 92A, Jamunalal Bajaj Street.

2. After amalgamation of both the premises, the land area comes to 3 Cottah, 7 Chatak 42 sq. ft. which is 2517 sq. ft. and less than the summation of the land area mentioned in the Deeds of 92A Jamunalal Bajaj Street & 92B, Jamunalal Bajaj Street.

3. The petitioner fails to provide/furnish any legal document/paper that the said passage been used by other person excluding the occupiers of the 2 alleged Premises Nos. 92A and 92B Jamunalal Bajaj Street. Whereas it appears from the amalgamation there is no existence of common passage which can be used by any third person”.

7. Accordingly, it was ordered that Premises No. 92A, Jamunalal Bajaj Street & 92B, Jamunalal Bajaj Street had been amalgamated by the Assessment Department of Kolkata Municipal Corporation (KMC),

the Building Department will follow the assessment record. The land area of Assessment record as mutated is 3 Cottah, 7 Chatak 42 sq. ft. which is 2517 sq. ft. has been considered and the building sanctioned plan be processed as applied on the same area. It was also made clear that there is no encroachment of property of 92C, Jamunalal Bajaj Street and right of egress and ingress of the property has not been blocked. As per the above observation, representation of the petitioner has been considered and disposed of.

8. Mr. Chakraborty, learned advocate representing the petitioner has, however, attempted to make out a case that the representation filed by the petitioner has not been completely considered. In this context, this Court notes that the petitioner had challenged the amalgamation made from the first quarter of 1989-90 by filing a writ petition in the year 2024. The Coordinate Bench of this Court did not pass any mandatory order in favour of the petitioner, rather directed the municipality to consider the petitioner's case. Pursuant to the above direction, the petitioner appeared before the Director General (Building), Kolkata Municipal Corporation. Though Mr. Chakraborty attempted to argue that the Director General (Building) is not competent to decide the matter, I find that no such objection was raised by the petitioner before the concerned authority. In fact, at the instance of the petitioner the Coordinate Bench passed the order by referring the matter before the municipality. The municipal authorities have since decided the matter upon giving reasonable opportunity of hearing to the

parties. The parties have been heard. It is not a case of violation of the principles of natural justice. From the materials on record, I do not find that the order passed by the Director General (Building), Kolkata Municipal Corporation to be perverse or based on no evidence. A factual finding has been returned. If, the petitioner is interested to establish that the passage that was in existence and catering to the Premises No. 92A and 92B Jamunalal Bajaj Street, was a common passage, for Premises No. 92C Jamunalal Bajaj Street as well, it was for the petitioner to establish the same before the appropriate Civil Court. In the present case, while responding to a query from the Court, Mr. Chakraborty has stated that no Civil Suit has been filed to hold out that the concerned passage is a common passage. It is well-settled what cannot be done directly should not be permitted to be done indirectly. The materials on record, inter alia, including SOR as disclosed by the municipal authorities specifically provided that the access of the petitioner's premises being 92C, Jamunalal Bajaj Street is from Brabourne Road. Accordingly, no interference is called for.

9. The petitioner by adopting sharp practice and to steal a march on the contesting respondents who contested the proceedings before the municipality, has presented the petition without impleading such parties to this petition. It was only after such respondents had intervened on 25th June, 2026 that the application for addition of party being CAN 1 of 2026 was filed on 7th July, 2026. Accordingly, the

application, being CAN 1 of 2026 is allowed. The department is directed to carry out the amendment.

10. Mr. Singh learned advocate accepts service on behalf of the added respondents.

11. The writ petition is accordingly disposed of.

Urgent photostat certified copy of this order, if applied for be given to the parties upon compliance with the requisite formalities.

(Raja Basu Chowdhury, J.)

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A.R. (Court)