

29.09.2020
Item No.02
Court No.11
Krishnendu

**W.P.A. No. 7614 of 2020
With
C.A.N. No. 01 of 2020
(Via Video Conference)**

In re: Prasanta Karmakar
- Versus -
The Kolkata Municipal Corpn. & Ors.

Mr. Biswanath Chatterjee
Mr. Sumitava Chakraborty
For the Petitioner
Mr. Ranjit Chatterjee
Mr. Subhrangsu Panda
For the K.M.C.
Mr. Tapan Kumar Mukherjee
Respondent No.3 (appearing
In-person)

Petitioner undertakes to affirm and stamp the petition/application as per Rules within one month of resumption of normal functioning of the court. Subject to such undertaking, the application is taken up for hearing through video conference.

The application, being CAN No. 01 of 2020, is disposed of.

The present writ petition has been preferred primarily praying for the following relief:

- (i) to issue a Writ in the nature of Mandamus do issue commanding setting aside the impugned Order of demolition dated 11.06.2019 passed by the respondent no. 5 in connection to the D/Case No.

7D/Borough-IX/19-20 (Kolkata
Municipal Corporation – Vs-
Prasanta Karmakar & Ors.);

Mr. Chatterjee, learned advocate appearing for the petitioner submits that he along with the respondent nos. 10 to 17 are the joint owners of the property detailed in paragraph 3 of the writ petition and they entered into a development agreement with Dipak Kumar Jana and Sanjoy Kumar Paramanik for construction of a G + four storied building in the concerned property. In course of the construction of the building, the respondent no. 7 herein preferred a writ petition, being W.P. 1700 (W) of 2019, impleading the petitioner herein, *inter alia*, praying for demolition of the building. The same was disposed of by an order dated 15th March, 2019.

Mr. Chatterjee further submits that in spite of a specific direction towards grant of opportunity of hearing in the proceedings initiated by K.M.C. under Section 400 of the K.M.C. Act, 1980, the demolition order was passed without serving any notice and without hearing the petitioner herein. Abruptly thereafter, a notice dated 21st September, 2020 was pasted upon the boundary wall of the scheduled premises. Aggrieved thereby, the petitioner has approached this Court.

Mr. Chatterjee, learned advocate appearing for the K.M.C. submits that against the order of demolition, a statutory appeal has been preferred by the petitioner herein and the petitioner also preferred a writ petition, being W.P. 16865 (W) 2019. Such facts have been suppressed in the writ petition. Copies of the orders passed in W.P.16865 (W) of 2019 , as produced, be kept on record.

Mr. Tapan Mukherjee, respondent no. 3, appearing in-person, submits that the writ petition is liable to be dismissed for suppression of material facts.

In the writ petition it has admittedly not been disclosed that the petitioner approached this Court earlier challenging the order of demolition. Furthermore, the petitioner has not constructed the concerned building. A statutory appeal, challenging the order of demolition, has already been preferred. Such fact has also been suppressed in the present writ petition.

In view thereof, the writ petition is dismissed.

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

All concerned parties shall act in terms of the copy of the order downloaded from the official *website* of this Court.

(Tapabrata Chakraborty, J.)