

ORDER SHEET

WPO 239 of 2020
IA No. GA 1 of 2020 (Old No. GA 1076 of 2020)
GA 2 of 2020
GA 3 of 2020
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

PAWAN KUMAR PATODIA & ORS.

THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE ABHIJIT GANGOPADHYAY

Date: 8th October, 2020

Mr. Suchayan Banerjee, Ms. Sharmistha Laha, Advocates for
petitioners.
Mr. Alak Kr. Ghosh, Mr. Subhrangsu Panda, Advocates for KMC.

The Court : This application is for quashing the order dated 2nd July, 2020 passed by the Municipal Commissioner of Kolkata Municipal Corporation. In the said order (which is at pages 494 and 495 of the writ application) it is found that after hearing the parties pursuant to the order passed by this Court the Commissioner directed the Building Department to commence appropriate proceeding under the Kolkata Municipal Corporation Act, 1980 after giving an opportunity of hearing to all interested parties.

Pursuant to such direction given by the Commissioner, a notice under Section 400 of the Kolkata Municipal Corporation Act, 1980 was issued and the petitioners herein were directed to show cause within a week from the date of service of the notice why appropriate action will not be taken in this matter. However, as hearing to all interested parties have not yet been given as per direction of the Municipal Commissioner, I direct the

appropriate officer of the Building Department to grant an opportunity of hearing to the petitioners, who claims to be the interested persons, within seven days from date and after that he will proceed in accordance with the direction of the Commissioner. If it is found after hearing that there is no reason to withdraw the notice issued by the Executive Engineer (which is at page 521 being annexure 'P-8' to the writ application), the proceeding in respect of the building in question will continue.

The learned Advocate for the petitioners has submitted that the Municipal Commissioner's order was passed pursuant to an order passed by one of the Hon'ble Judges of this Court and they have filed one recalling application of that order which is yet to be heard. I hold that such pendency of the recalling application cannot stand in the way in complying with the order passed by this Court earlier and I do not find any illegality in the Commissioner's action following the said order of the Court.

With the above direction, the writ petition is disposed of along with the applications being G. A. 1 of 2020 (Old No.G. A.1076 of 2020), G. A. 2 of 2020 and G. A. 3 of 2020.

(ABHIJIT GANGOPADHYAY , J.)