

13.07.2021
Sl. No.7
srm

W.P.A. No. 10924 of 2021

Rameshbhai M. Mehta @ Ramesh Mehta
Vs.
The Kolkata Municipal Corporation & Ors.

Md. Shahajahan Hossain

...for the Petitioner.

Mr. Achintya Kumar Banerjee,

Mr. Santanu Chatterjee

...for the Kolkata Municipal Corporation.

This writ petition has been filed for a direction upon the respondent No.3, i.e., the Executive Engineer (Civil), Building department, Borough VI, Kolkata Municipal Corporation to withdraw the notice bearing Memo No.Bldg/Br-VI/52/21-22 dated June 21, 2021 being Annexure P-8 to the writ petition. This is a notice of demolition.

The petitioner submits that during the pendency of another writ petition and a restraint order upon the Corporation, the demolition notice has been issued.

Mr. Banerjee, learned Advocate appearing on behalf of the Kolkata Municipal Corporation, submits that the writ petition is not maintainable at the instance of the petitioner, who is not the person responsible for the unauthorised construction. He next submits that by an order dated March 1, 2021 passed in WPA No.14225 of 2019, this Court directed implementation of the order of demolition passed in a

demolition case No.02-D/VI/2013-14, Br-VI. He submits that the petitioner, thus, cannot challenge the order of demolition by filing this writ petition.

It is submitted by the petitioner that the petitioner was not a party respondent in the writ petition in which the order was passed. He further submits that the order was passed by another co-ordinate Bench of this Court without taking into consideration the pendency of a writ petition and a stay order passed therein.

Having considered the order passed by a co-ordinate Bench of this Court in respect of the same premises being Premises No.2, Gibson Lane, Ward No.046, Borough-VI, Kolkata -700069 with a direction upon the Kolkata Municipal Corporation to implement the order of demolition at the earliest, but positively within a period of four months from the date of communication of this order, this Court is unable to entertain this writ petition. The remedy of the petitioner was to challenge the order dated March 1, 2021 and instead of doing so the petitioner has approached this Court seeking for remedies which would, in effect, amount to interference with the order of a co-ordinate Bench.

This writ petition is dismissed without any order.

The petitioner will be at liberty to approach the appropriate forum in accordance with law.

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

All parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)