

S/L . 23
31.08.2021
Court. No. 19
sn

WPA 11530 of 2021

Monica Chowdhury & Ors.
Vs.
Kolkata Municipal Corporation & Ors.

(Through Video Conference)

Mr. Sourav Sen
Mr. Soumashree Ghosh ...for the Petitioners

Mr. Fazlul Haque
Mr. Monojit Pal *..for the KMC*

Mr. Wasim Ahmed *..for the State*

Let affidavit of service be taken on record.

This writ petition has been filed by the owners of premises No. 61/3, Sarat Bose Road, Kolkata 700 025.

It is the contention of the petitioners that a notice under Section 411(1) of the Kolkata Municipal Corporation Act, 1980 was served upon the petitioners to secure, repair and dismantle the dilapidated portion of the existing building under the supervision of an Empanelled Structural Engineer or the Kolkata Municipal Corporation. It is also the contention of the petitioners that despite the said order, the petitioners are not being able to carry out the repair work of the building, as directed by the Corporation. It is further submitted that the building is in a dangerous condition and

may collapse, which could be fatal for the occupants. It is submitted that by two separate representations, the owners approached the Kolkata Municipal Corporation to act in terms of Section 411 and Section 412 of the said Act, 1980. The specific case is that the petitioners have failed to carry out the repair work because the unauthorised occupants are not vacating the premises and the Corporation should proceed under Sections 411(2) and 412 of the Kolkata Municipal Corporation Act. These occupants have been impleaded as respondent nos. 7 to 12 in the writ petition, who are not present before this Court, despite service.

Under such circumstances, this writ petition is disposed of with a direction upon the competent authority of the Kolkata Municipal Corporation to dispose of the representation of the petitioners which was received by the Kolkata Municipal Corporation on May 3, 2021, in accordance with law upon giving an opportunity of hearing to the petitioners as also the representatives of the respondent nos. 7 to 12 and all other occupants. This Court has not gone into the claims of the petitioners. It is for the appropriate authority of the Corporation to act and proceed in accordance with law specially in terms of Section 411 and Section 412 of the Kolkata Municipal Corporation Act, 1980.

Undertaking for reinstatement of the occupants may also be taken by the Corporation from the owners as per the provisions of law. A reasoned order shall be passed and communicated to all concerned. The primary concern should be the safety and security of the occupants and the urgent need for repair.

The entire exercise shall be completed within a period of eight weeks from date of communication of this order.

The writ petition is, thus, disposed of.

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.

All parties are directed to act on the learned advocate's communication.

(Shampa Sarkar, J.)