

12.
08-12-2021
debajyoti
(Ct. no.06)

MAT 799 of 2021
with
IA NO:CAN/1/2021
with
CAN/3/2021
(this application not in the file)

Kartick Chandra Dian & Ors.
Vs.
Kolkata Municipal Corporation & Ors.

Mr. Partha Sarathi Bhattacharyya,
Mr. Mahim Sashmal,
Mr. Raju Bhattacharyya
... For the Appellants.

Mr. Alok Kumar Ghosh,
Mr. Swapan Kumar Debnath
... For the K.M.C.

Mr. Pradyot Kumar Nandi,
Ms. Anjana Sengupta
... For Respondent Nos.5,
6, 7, 8 and 10.

By consent of the parties, the appeal and the applications are taken up together for hearing.

The writ petitioners/appellants are occupiers of a particular premises on Strand Road, Kolkata. They say that the building that they occupy is in a dilapidated condition and poses real danger to the occupants as also the people and property in the immediate vicinity thereof. They have sought permission from the Kolkata Municipal Corporation to repair the building. Such permission has not been given. With this grievance, they approached the learned Single Judge praying for a direction on the Corporation to allow the writ petitioners to repair the building or take other steps for the safety of the occupants of the said building.

Before the learned Single Judge, the Corporation submitted that the building is in a ruinous condition. The department has served notices under Section 411 of the Kolkata Municipal Corporation Act, 1980, requiring the owners and/or the occupiers of the building to carry out necessary repairs immediately. A notice has already been issued declaring the building as “dangerous building”.

The learned Judge noted that the Corporation has taken necessary steps for remedying the situation. The learned Judge, accordingly, did not pass any order excepting observing that the noticees are to act in accordance with the notices issued by the Corporation, in default, the Corporation shall be entitled to take further steps in accordance with law. The writ petitioners are before us in appeal.

We find absolutely no infirmity in the order under appeal. If the concerned building is in a dangerous condition, the same needs to be repaired urgently. The Corporation has issued requisite notices. The Corporation, we are sure, will take appropriate steps to see that no untoward incident happens because of the dangerous condition of the building.

The appellants say that they are prepared to carry out necessary repairs at their own cost. They will be at liberty to do so under the supervision of any empanelled structural engineer, at their own cost. We make it clear that in view of the notice under Section 411 of the Kolkata Municipal Corporation Act issued by the Corporation, the occupiers not only have the liberty, but the duty to carry out such repairs and this

order shall not be construed as any kind of direction on the occupiers to carry out the repairs. Needless to say, under the garb of repairing the building, the appellants shall in no manner change the nature and character of the building. The owners of the building shall fully cooperate with the appellants insofar as the repairing work is concerned.

We see no reason to interfere with the order under appeal. MAT 799 of 2021 along with CAN 1 of 2021 and CAN 3 of 2021 are disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)