

S/L 3
18.11.2021
Court. No. 19
sn

W.P.A. No.17974 of 2021

Biplab Dutta
Vs.
The State of West Bengal & Ors.

Mr. Anupam Bhattacharyya
Mr. Anindya Halder
... for the Petitioner.

Ms. Susmita Biswas Chowdhury
... for the State.

Mr. Gopal Chandra Das
Mr. Rudranil De
... for the K.M.C.

The order impugned before this Court is an
appealable order.

The petitioner is aggrieved by an order dated
September 30, 2021, issued by the Executive Engineer (C),
Building Department, Borough-III, Kolkata Municipal
Corporation. The petitioner has been given only five days to
demolish the building, failing which, the Corporation has
indicated that demolition would be carried out by the
Corporation. According to the petitioner, even before the
period of filing of an appeal against the said order had
expired, the corporation has threatened to demolish the
structure.

It is the specific case of the petitioner that the order dated September 30, 2021 was delivered to the petitioner on November 7, 2021. Thus, the petitioner could not avail of the remedy under the law. Although, the petitioner attended the hearing, the petitioner was unaware of the consequences of the said hearing until November 7, 2021.

Under such circumstances, the writ petition is disposed of without any order but granting liberty to the petitioner to move the Appellate Tribunal in accordance with law. The petitioner shall also be entitled to pray for a stay of this order of demolition and the said prayer shall also be decided in accordance with law upon hearing the parties and upon adjudication of the prima facie case, independently.

The demolition order will remain stayed for a period of six weeks. Thereafter, the Kolkata Municipal Corporation shall act and proceed on the basis of any order passed by the Appellate Tribunal.

If the petitioner fails to get any stay within the period as indicated above, the Kolkata Municipal Corporation shall be at liberty to proceed in accordance with law.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

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

(Shampa Sarkar, J.)