

Ct. 05
Item No.09
22.12.2021
(suvendu)

WPA 19774 of 2021

[Via Video Conference]

**Janaki Mondal
Vs.
State of West Bengal & Ors.**

Mr. Anindya Halder
Mr. Suman Agarwal
.....for the petitioner

Mr. Malay Singh
Ms. Neelam Singh
.....for the State

Mr. Dilip Chatterjee
Mr. Rudranil De
.....for the KMC

Affidavit of service filed on behalf of the
petitioner is taken on record.

The petitioner seeks protection against an
order of demolition passed by the Executive Engineer
on 20th September, 2021.

Learned counsel appearing for the petitioner
submits that the said order was received by the
petitioner on 27th November, 2021 and seeks
protection till the petitioner approaches the Tribunal
under Section 400 (3) of The Kolkata Municipal
Corporation Act, 1980.

Learned counsel appearing for the
Corporation submits that the petitioner could have

taken steps after receiving the Notice of demolition but failed to do so.

Upon hearing learned counsel, this Court is of the view that since the postal receipt shows that the order dated 20th September, 2021 was delivered to the petitioner more than two months later, i.e. on 27th November, 2021 and Section 400 (3) of the Act gives thirty days to the aggrieved person from the date of the order made under Section 400 (1) of the Act to prefer an appeal against such order, the petitioner should be protected till thirty days are completed from the date of receipt of the impugned order. The protection against any demolition carried out by the concerned authority shall remain till 27th December, 2021. The petitioner shall be at liberty of taking appropriate steps within 27th December, 2021, if so advised.

It is made clear that this Court has not gone into the merits of the petitioner's case.

WPA 19774 of 2021 is disposed of in terms of the above.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Moushumi Bhattacharya, J.)

