

22nd December, 2021
(D/L No.14)
(SKB)

WPA 20609 of 2021
(Via Video Conference)

Shyamali Mallick @ Shyamal Mallick
Vs.
The Kolkata Municipal Corporation and others

Mr. Prasenjit Mukherjee,
Md. Shakir
... for the petitioner.

Mr. Debjit Mukherjee,
Mr. Anand Farmania
... for the K.M.C.

Affidavit of service filed in Court today is taken on record.

The petitioner is aggrieved by a notice of demolition issued by an Executive Engineer of the Kolkata Municipal Corporation dated 9th December, 2021. The petitioner admits that the said notice was received by him on the same day i.e. on 9th December, 2021.

Learned counsel appearing for the petitioner submits that notwithstanding the 30 days waiting period provided under Section 400(3) of the Kolkata Municipal Corporation Act, 1980, the impugned notice states that demolition shall be carried out within five days from the date of receipt of the impugned notice.

Learned counsel appearing for the Corporation submits that the petitioner has effected service several times and that the Corporation had to affix the notice of demolition in the present premises.

Upon hearing learned counsel, the impart of Section 400(3) of the 1980 Act, makes it clear that any person aggrieved by any order of the Municipal Commissioner under Section 400(1) of the said Act may prefer an appeal to the Municipal Corporation Building Tribunal within thirty days from the date of the order.

The petitioner hence has till 8th January, 2022 to take appropriate steps under 400(3) of the Act. Learned counsel for the petitioner seeks an extension of the time period which this court is not inclined to grant.

By reason of the above, W.P.A.20609 of 2021 is disposed of with the petitioner being protected from any order of demolition under the time limit prescribed under Section 400(3) of the Act. The petitioner shall be at liberty of taking steps for challenging such order, if petitioner is so required.

On the prayer of the counsel of the petitioner, the Corporation is requested to serve a fresh copy of the impugned notice to the petitioner's advocate by tomorrow i.e. 23rd December, 2021.

Urgent photostat certified copy of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Moushumi Bhattacharya, J.)