

Court No. 24

22.01.2021

(Item No. 19)

(AB)

W.P.A 9500 of 2020

Md. Moizuddin & Anr.

vs

The Kolkata Municipal Corporation & Ors.

Mr. Syed Nurul Arefin

Ms. Saswati Chatterjee

...for the Petitioners

Mr. Syed Nasirul Hossain

.... for the respondent No. 8

Mr. Ranjit Chatterjee

Mr. Gopal Chandra Das

Mr. Subhrangsu Panda

.... For Kolkata Municipal Corpn.

The petitioners allege illegal and unauthorised construction being carried on in the common passage of the premises No. 80/1, Topsia Road, Ward No. 66, Borough No. VII. It appears from records that pursuant to a complaint lodged, the Kolkata Municipal Corporation initiated a demolition proceeding being D/case No. 276-D/VII/04-05 and by an order dated 23rd May, 2007 the Special Officer (Building) passed an order for removal of the same and the other obstructing structures constructed within the area of the common passage. The order passed by the Special Officer (Building) was carried up in appeal and dismissed by an order dated 24th February, 2016, for default. The petitioner prays for execution of the order passed by the Special Officer (Building).

The learned advocate appearing on behalf of the private respondent submits, upon instruction, that an application for restoration has been filed and the same is pending.

It appears that a decree was passed in respect of the self-same property by the Court of Civil Judge, Junior Division, First Court on 29th August, 2012 in Title Suit No. 440 of 2004 which was contested between the parties and the learned Court specifically restrained the defendants from demolishing the plaintiff's wall and causing damage thereon. The demolition proceeding which was initiated by the Kolkata Municipal Corporation was also taken into consideration by the learned Judge at the time of passing of the decree in the Title Suit.

As it appears that there exists a civil dispute with regard to the title and ownership of the disputed land accordingly no relief can be granted to the petitioners in the instant case.

The writ petition is hereby dismissed.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of usual legal formalities.

(Amrita Sinha, J.)