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ORDER SHEET

WPO No. 838 of 2021
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

ANSHU AGARWAL
Versus
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : 22nd September, 2021.

Appearance :

Mr. Siddhartha Banerjee, Adv.

Mr. Meghnad Dutta, Adv.

Ms. Sananda Ganguli, Adv.

For the petitioner.

Mr. Arijeet Doss Mullick, Adv.

For the respondent nos. 5 to 9.

Mr. Alok Kumar Ghosh, Adv.

Ms. Manisha Nath, Adv.

For K.M.C.

The Court :- The writ petition has been filed by one of the owners of premises No. 318, Chittaranjan Avenue, Kolkata 700 006. It is the contention of the petitioner that although a notice under Section 411[1] of the Kolkata Municipal Corporation Act, 1980 has been issued upon the owners and the occupiers directing them to demolish the endangered/ruinous portion of the building and to secure the rest of the building by conducting thorough and adequate repair, no specification

has been given as to which portions of the building are required to be demolished and which portions are required to be repaired.

Mr. Arijeet Doss Mullick, learned Advocate appearing for the respondent nos. 5 to 9, also adopts the submission of Mr. Banerjee, learned Advocate appearing for the petitioner.

Mr. Ghosh, learned Advocate appearing on behalf of the Kolkata Municipal Corporation, submits that it is for the owners of the premises as also the occupiers to ensure that the notice under Section 411(1) of the Kolkata Municipal Corporation Act, 1980 is complied with. He submits that the notice had indicated to the owners and occupiers about the dangerous state of the building and the requirement for partial demolition and partial repair. The onus lies on the owners and the occupiers to get the building inspected by a Licensed Building Surveyor or an Empanelled Structural Engineer of the Kolkata Municipal Corporation so that a technical report with measurements, may be prepared by the said person indicating the portion of the building to be demolished, the same being beyond repair and the portion of the building which could be salvaged by thorough repair.

In view of the submissions made hereinabove, before the Municipal Commissioner is called upon to apply his mind to the next stage, the writ petition is disposed of with a direction upon the petitioner to meet the Sub-Assistant or Executive Engineer Civil (Building), Borough No. IV & V within 24 hours to collect the name/names of the particular Licensed Building Surveyor or an Empanelled Structural

Engineer of the Kolkata Municipal Corporation who operate(s) in the locality in which the building is situated. Upon obtaining such name or names, the petitioner shall approach the said persons and thereafter cause an inspection through the person concerned upon payment of fees. The petitioner and the co-owners shall take appropriate steps on the basis of the said report. The report shall also be submitted before the Corporation for further steps in the matter.

In view of the dangerous position of the premises and likelihood of an accident which may be fatal, it is expected that this exercise shall be completed expeditiously.

(SHAMPA SARKAR, J.)

snn.