

OD-4

WPO 568 of 2017
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

MD RAFIQUE PURKAIT & ORS
VS
KOLKATA MUNICIPAL CORPORATION & ORS

BEFORE:
The Hon'ble JUSTICE RAVI KRISHAN KAPUR
Date : 18th February, 2021.

Appearance:
Mr. Mainak Bose, Adv.
Mr. Sarathi Dasgupta, Adv.
Mr. Arijit Basu, Adv.
Mr. Asit Kr. Hazra, Adv.
Mr. Mrinal Kanti Maity, Adv.
...for petitioner.

Mr. Alak Kr. Ghosh, Adv.
Mr. Swapan Kr. Debnath, Adv.
...for K..M.C.

The Court : The grievance of the petitioner is directed against the demolition notice dated 6th September, 2017 (Annexure P6 at page 127 of the petition). The only submission made on behalf of the petitioner is that in respect of the very same premises the respondent Corporation had issued a notice on 11th March, 2017 (Annexure P5 at 126 of the writ petition). In this background, the petitioner attempts to highlight the absurdity of the Corporation in issuing

two separate notices dated 11th March, 2017 and 6th September, 2017 respectively for demolition of the very same premises. It is contended on behalf of the petitioner that he cannot be prejudiced twice in respect of the very same premises and the proposed demolition to be carried out by the Corporation is unlawful.

Mr. Alak Kr. Ghosh appearing on behalf of the Corporation submits that if the Corporation had already demolished and carried out the demolition order dated 11th March, 2017, there would be no question of demolition of the subject premises again. He further submits that the very same demolition order dated 14th December, 2002 has been sought to be implemented in respect of both the demolition notices appearing at annexure P5 and P6 to the petition. In this background, he submits that the Corporation is not prejudicing the petitioner twice but is in fact carrying out the original order of demolition dated 14th December, 2002.

I have heard the parties. I have also considered the pleadings filed on their behalf.

I find from both the order dated 11th March, 2017 and 6th September, 2017 that the original demolition order dated 14th December, 2002 is sought to be carried out and implemented by the respondent Corporation. There can be no question of the petitioner being prejudiced twice. If the demolition order dated 14th December, 2002 had not been carried out by the notice dated 11th March, 2017 then the same will be positively implemented by the second order dated 6th September, 2017. In any event, it is the original demolition order dated 14th

December, 2002 which is sought to be implemented by the Corporation and this in my view must be implemented.

In view of this submissions of the parties, nothing else survives in this writ petition. WP No. 568 of 2017 is disposed of with a direction on the respondent Corporation to carry out and fully implement the demolition order dated 14th December, 2002.

(RAVI KRISHAN KAPUR, J.)

SK.