

S/L 12
15.02.2022
Court. No. 19
GB

W.P.A. 2529 of 2022

Md. Imtiyaz
VS
The State of West Bengal & Ors.

*Mr. Somnath Gangopadhyay,
Mr. Rahul Singh.*

...for the Petitioner.

*Mr. Lalit Mohan Mahata,
Mr. Rama Prasad Sarkar,
Ms. Anita Deb Jana.*

...for the State.

*Mr. Subhrangsu Panda,
Ms. Ina Bhattacharyya.*

...for the K.M.C.

The petitioner is aggrieved by a notice issued under Sections 544 and 546 of the Kolkata Municipal Corporation Act, 1980. The notice impugned to the writ petition arises out of an order of demolition dated September 21, 2021. The said order is an appealable order.

It is the contention of the petitioner that the petitioner has not been served with a copy of the demolition order. It is submitted that unless the order is served upon the petitioner, the petitioner would not be able to avail of the remedy of appeal.

Having heard the rival contentions of the parties, this Court is of the opinion that the remedy of the petitioner would be before the learned Municipal Building Tribunal.

The order of demolition shall remain stayed for a period of three months, within which time the petitioner shall be at liberty to approach the Tribunal in accordance

with law. The petitioner shall also be entitled to pray for an interim order upon notice to the respondents.

In case, the petitioner is not successful in getting an order of interim stay of demolition within the aforesaid three months, the Corporation shall proceed in accordance with law.

This Court has not gone into the merits of the claims and counter-claims of the parties. As is the specific case of the petitioner that the demolition order has not been served upon the petitioner, the petitioner shall apply for a copy of the demolition order within 48 hours and the same shall be supplied to the petitioner immediately. The Tribunal shall proceed in the matter independently without being influenced by any observations made hereinabove.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All parties are directed to act on the basis of server copy of this order and/or the learned advocate's communication.

(Shampa Sarkar, J.)