

31.03.2022
Court No. 19
Item No.29
sn

WPA 3004 of 2022

Dipak Shaw

Vs.

The Kolkata Municipal Corporation & Ors.

Mr. Debabrata Saha Roy
Mr. Indrajit Mitra
Mr. Pingal Bhattacharyya
Mr. Neil Basufor the petitioner

Mr. Alok Ghosh
Mr. S. Panda ..for the KMC

Mr. Raghunath Chakraborty
Mr. Falguni Bandopadhyay
Mr. Manas Saha
Ms. Riya Ballav ..for the respdts.5&6

The contention of the writ petitioner is premature in view of the fact that the Special Officer(Building), Kolkata Municipal Corporation, has not yet concluded the proceedings. The demolition proceedings were initiated by D/Case No.95-D/Br.-V/21-22 pursuant to the directions of this Court in WPA 9190 of 2020.

The petitioner contends that although there are several violations of the building rules, the Special Officer (Building), Kolkata Municipal Corporation has recorded the submissions of the concerned Executive Engineer, inter alia, that there are no deviation from the rules.

It is further submitted that apart from the directions for demolition of the 5th and 6th floors,

which have been found to be unauthorized, other deviations from the sanction plan and infringement of the rules have not been taken into consideration.

This Court finds that the proceeding before the Special Officer (Building), Kolkata Municipal Corporation has not been concluded. It has been directed that upon demolition of structures constructed on the 5th and 6th floors, the other allegations with regard to deviations and infringement statement etc shall be taken into consideration, later.

Thus, the Court does not find any reason to interfere with the proceedings at this stage, which is yet to be concluded by the Corporation.

The Special Officer(Building), Kolkata Municipal Corporation is directed to conclude the proceeding with regard to Part-B within three months from the date of communication of this order. In case of Part-A is not complied with by the persons responsible, the Corporation reserves the right to proceed against such construction in terms of the order.

According to Mr. Raghunath Chakraborty, learned advocate for the respondent nos. 5&6, the order is an appealable order. However, as the hearing is not yet concluded, this Court instead of relegating the petitioner to the appellate forum deems it fit to

direct the Corporation to complete the proceedings. The submissions of Mr.Chakraborty that the demolition of 5th and 6th floors have been completed, need not to be considered by this Court and the compliance report shall be filed before the Special Officer(Building), Kolkata Municipal Corporation, who shall upon being satisfied of the compliance of Part-A of the order, proceed with Part-B upon granting an opportunity to the parties.

A reasoned order shall be passed and communicated to all concerned which shall be in addition to the order already passed on September 22, 2021.

This Court has not gone into the merits of the claims and counter claims of the parties.

This writ petition is, thus, disposed of.

There will be, however, 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.)