

03.03.2022
Court No. 19
Item no.08
GB

WPA 3014 of 2022

Pulin Adhikary & Anr.
Vs.
The Kolkata Municipal Corporation & Ors.

Md. Shakir.

.....for the petitioners.

Ms. Koyeli Bhattacharya
Mr. Subhrangsu Panda

....for the K.M.C.

The reason for interference with the order of demolition passed by the Executive Engineer (Civil)/Building, Borough-I, dated February 8, 2022, is violation of the principles of natural justice. The show cause issued and the order impugned both indicate the nature and extent of the unauthorized construction. Admittedly, the order was passed without hearing the petitioners.

It is the contention of the petitioners that notice of hearing was not received by the petitioners.

On the contrary, the learned advocate appearing on behalf of the Kolkata Municipal Corporation (hereinafter referred to as 'the corporation'), submits that the petitioners failed to appear before the authority and they also did not pray for an adjournment of the hearing on the relevant date.

Instead of calling for affidavits and prolonging the matter, the court is of the opinion that the matter must be relegated to the corporation for a fresh hearing. The order of demolition is set aside.

Without going into the other formalities of issuance of notice, this court fixes the date of hearing by the Executive Engineer (Civil)/Building, Borough-I, on March 28, 2022 at 12 noon.

The order of this court will be notice to all the parties. All the parties will attend the hearing on that day, with all supporting documents. The parties would be entitled to be represented by their learned advocates.

On the basis thereof and upon hearing all the parties, a reasoned order will be passed by the corporation in accordance with law. The same shall be communicated. The corporation will be at liberty to act and proceed accordingly to law.

This court has not gone into the merits of the findings as it is the corporation which has been vested with the power to act and proceed on the basis of detection of unauthorized construction.

The entire exercise shall be completed within a month from the first date of hearing as fixed by this court. No unnecessary adjournments shall be given to either of the parties. The order of demolition is set aside.

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)