

03.03.2022
Court No. 19
Item no.09
GB

WPA 3385 of 2022

Prosenjit Gupta
Vs.
The Kolkata Municipal Corporation & Ors.

Md. Shakir.

.....for the petitioner.

Mr. Dilip Kumar Chatterjee,
Mr. Dwijadas Chakraborty.

....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 5, 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 petitioner.

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

On the contrary, the learned advocate appearing on behalf of the Kolkata Municipal Corporation (hereinafter referred to as 'the corporation'), submits that a notice was served.

In any event, the order reflects that the petitioner was not heard. At least, the authority

could have given once more opportunity to the petitioner to attend the hearing.

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 according 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.)