

07.03.2022
Sl. No.5
srm

W.P.A. No. 3707 of 2022

Kishan Jaiswal

Versus

State of West Bengal & Ors.

Mr. Supratik Basu,
Mr. Shuvam Shaw

...for the Petitioner.

Mr. N.C. Bihani,
Ms. Manisha Nath

...for the Kolkata Municipal Corporation.

Mr. Srijan Nayak,
Mrs. Rituparna Maitra

...for the State-respondents.

Affidavit of service is taken on record.

The grievance of the petitioner is that the Kolkata Municipal Corporation issued a notice on February 22, 2022 with a threat to demolish the unauthorised structures. It is submitted that during the pendency of the application for condonation of delay, the application for stay and the appeal before the learned Municipal Building Tribunal, the Kolkata Municipal Corporation exceeded its jurisdiction by issuing such notice.

The petitioner submits that the learned Tribunal had not been sitting for some time. The next date has been fixed on April 13, 2022. The case records have been called for. The

petitioner submits that the prayer of the petitioner for interim stay, as per the liberty granted by this Court, has not been considered till date. The application for condonation of delay has not yet been decided.

Mr. Bihani, learned Advocate appearing on behalf of the Kolkata Municipal Corporation, submits that no appeal exists in the eye of law, as the application for condonation of delay in filing the appeal had not been disposed of.

Be that as it may, this Court was of the opinion that some time should be given to the petitioner to obtain an order of stay from the learned appellate Tribunal exclusively, on the merits of the case.

This writ petition is disposed of with a direction upon the learned Tribunal to complete the hearing of the application for condonation of delay on the next date, *i.e.*, on April 13, 2022 and thereafter conclude the hearing of the application for stay and the hearing of the appeal within three weeks from April 13, 2022, in case the appeal is registered..

As Mr. Bihani represents the Corporation, further notice upon the Corporation is dispensed with. It also appears that the Corporation has already appeared before the learned Tribunal on February 11, 2022. The Corporation shall ensure that the original records are transmitted

immediately to the learned Tribunal. Photocopies of the same shall be ready at the time of hearing of the appeal. If the delay is condoned, the learned Tribunal shall mandatorily hear out the appeal and the application for stay within the period mentioned hereinabove. Unnecessary adjournments shall not be granted.

The order of demolition shall remain stayed till the disposal of the appeal and the application for stay.

This Court has not gone into the merits of the claims and counterclaims of the parties and the learned Tribunal shall decide the matter independently.

The writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

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(Shampa Sarkar, J.)