

31.03.2022
Court No. 19
Item no.8
GB

W.P.A. No. 5388 of 2022

Amit Kumar Gupta

Versus

The State of West Bengal & Ors.

Mr. Supratik Basu,
Mr. Shuvam Shaw.

..for the petitioner.

Mr. Debjit Mukherjee,
Mr. Raju Bhattacharyya.

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

Mr. Susanta Pal,
Ms. Ananya Neogi.

....for the State-respondents.

The petitioner is aggrieved by the demolition order dated February 28, 2022, issued by the Executive Engineer (Civil/Building), Borough-VI, Kolkata Municipal Corporation. The order impugned is an appealable order.

It appears that 15 days time was given to the petitioner to demolish the unauthorized portion, failing which the Kolkata Municipal Corporation threatened to take action for demolition.

The petitioner has not preferred any statutory appeal and apprehends that the demolition may take place at any time. Hence, intervention of the writ Court is sought for.

Admittedly the pandemic situation has caused serious hardship to the litigants.

As the law provides an alternative remedy, this Court does not interfere with the order impugned, but

grants liberty to the petitioner to prefer a statutory appeal within seven days from date, in accordance with law.

The order of demolition shall not be given effect to for a period of three months from the date of communication of this order.

If within the aforementioned period the petitioner is not able to obtain a protective order in respect of the construction, the Kolkata Municipal Corporation shall proceed according to law.

The appeal shall be filed with the plain copy of the order passed by the Corporation and served upon the petitioner or with the notice furnished. The Tribunal shall accept the memorandum of appeal and the applications filed therewith. The petitioner shall apply for a certified copy within this week and the same shall be furnished before the Tribunal, when the copy is supplied by the Corporation. This order shall not be construed as an opinion on the merits of the appeal or on the merits of the order impugned.

The learned Tribunal shall decide the entire issue expeditiously and independently.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)