

27th April,
2022
(AK)
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W.P.A 5601 of 2022

Om Prakash Bhartia
Vs.
The Kolkata Municipal Corporation and others

Mr. Saket Sharma
...for the petitioner.

Mr. Kamalendu Ghose
Mr. Raja Ghosh
...for the State.

Mr. Sunny Nandy
Mr. Subha Pathak
...for the respondent nos.9 & 10.

Mr. Alok kr. Ghosh
Mr. Subhrangsu Panda
...for the K.M.C.

The grievance of the petitioner, who is a landlord of a dilapidated building, is that although the Kolkata Municipal Corporation has issued a notice of demolition/repair under Section 411(1) of the Kolkata Municipal Corporation Act, 1980, due to non-cooperation of some of the tenants at the premises, the petitioner-landlord is not being able to carry out the necessary repair works.

Learned counsel appearing for the private respondent nos.9 and 10 submits that the said respondents/tenants do not have any objection to the repair work being carried out and they are willing to co-operate in the matter.

Learned counsel appearing for the State files a report which be kept on record.

Learned counsel appearing for the KMC contends that there has been sufficient compliance of Section 411(1) insofar as the issuance of the notice, that is, Annexure-P4 at page-28 of the writ petition, is concerned.

Unless the addressees of the notice take steps accordingly, the further steps contemplated in law cannot be taken by the KMC.

A perusal of the notice-in-question (Annexure-P4 at page-28 of the writ petition) clearly indicates that the same was addressed not only to the petitioner-landlord but to “Owners and Occupiers” of the Premises No. 75, Utkalmony Gopabandhu Sarani, Ward No.-042, Borough No. V.

A bare perusal of the said notice clearly indicates that the ingredients of Section 411(1) of the KMC Act were complied with in issuing the said notice.

The objection of the petitioner with regard to non-cooperation of some of the tenants cannot stand in the way of the petitioner and the willing tenants proceeding with the repair work and/or demolition, as deemed fit, pursuant to the notice at page-28.

Moreover, since the notice was clearly addressed not only to the petitioner but also to all occupiers of the building, the same binds the tenants and occupiers of the building other than the petitioner and the respondent

nos.9 and 10 as well and, in the event of non-compliance of the course of action indicated in the notice, it will be open to the municipal authorities to take appropriate steps in follow-up of the notice, in accordance with law.

As such, there is no scope for interference at the present moment by this court under Article 226 of the Constitution of India.

WPA 5601 of 2022 is disposed of with the expectation that all the occupiers of the building-in-question shall cooperate in the repair work and/or demolition as undertaken by the petitioner-landlord.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)