

04.04.2022
Sl. No. 9
ss

W.P.A. 5687 of 2022

Tanweer Ebadullah
Vs.
The State of West Bengal & ors.

Mr. Supratik Basu
Ms. Samata Chhari
... for the petitioner

Mr. Debjit Mukhertje
Mr. Moloy Roy
... for the K. M. C.

Mr. Swapan Banerjee
Ms. Susmita Biswas Chowdhury
... for the State

Affidavit of service filed is kept on record.

The petitioner is aggrieved by an order of demolition dated March 25, 2022. The petitioner has prayed for stay of the demolition order.

It is submitted that the certified copy of the order has not been furnished to the petitioner and as such, the statutory appeal could not be filed.

Mr. Mukherjee, learned Advocate appearing on behalf of the Kolkata Municipal Corporation, submits that the writ petition is premature and must be dismissed.

According to Mr. Mukherjee, the time to file the statutory appeal has not expired. There is no averment in the writ petition, *inter alia*, stating whether the certified copy was not supplied to the petitioner or not. As such, Mr. Mukherjee, prays that the writ petition must be dismissed without interference.

The contention of Mr. Mukherjee is accepted by this Court. However, as there is nothing on record to show that the Kolkata Municipal Corporation had actually supplied the certified copy of demolition order to the petitioner, the Court disposes of the writ petition with liberty to the petitioner to prefer the statutory appeal with an application for stay within the statutory period. The order that was supplied to the petitioner by the corporation shall be attached to the memo of appeal and such memo of appeal shall be accepted by the Municipal Building Tribunal. The petitioner shall be allowed to move the application for stay, upon notice to the Corporation.

The petitioner will apply for the certified copy of the order of demolition within 48 hours and produce the same before the learned Tribunal, once the same is supplied by the Corporation.

The demolition order shall remain stayed for a period of three months. If the petitioner is not able to satisfy the Corporation after expiry of the aforementioned period, that the order of demolition had been stayed, by the learned Tribunal, the Corporation shall proceed in accordance with law.

With the above observations, this writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the learned advocate's communication.

(Shampa Sarkar, J.)