

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 10483 of 2022

**Anil Sharma
-versus
The Kolkata Municipal Corporation & Ors.**

Mr. Rudranil De
Mr. Mahaboob Ahmed
Ms. Tiyaasa Chowdhury
...For the Petitioner
Mr. Alok Kr. Ghosh
Mr. Mihir Kundu
...For the KMC
Mr. Gopal Chandra Das
...For the respondent Nos. 5, 6 & 7

The petitioner is aggrieved by the notice dated 2nd June, 2022 directing the persons responsible to demolish within 5 days the unauthorized construction of the premises No. 13/B/H/9, Rajendra Sen Lane (4th and 5th floor) ward No. 25, Borough-IV under the jurisdiction of the Kolkata Municipal Corporation.

The order of demolition mentions that construction of RCC columns, beam, roof, staircase were made in the 4th and 5th floor without obtaining any building sanction plan. The same has been constructed in violation of Kolkata Municipal Corporation Building Rules, 2009.

The petitioner intends to prefer an appeal against the order of demolition before the Municipal Building Tribunal and has applied for obtaining certified copy of the order dated 2nd June, 2022 on 10th June, 2022.

According to the petitioner, he is entitled to prefer an appeal within the statutory period of thirty days but the petitioner apprehends that if the Corporation starts with the work of demolition after 5 days from the date

of the order, then the appeal to be filed by the petitioner will be rendered infructuous.

It has further been submitted that without the certified copy of the order of demolition, the Municipal Building Tribunal will not accept the appeal.

Learned advocate representing the Kolkata Municipal Corporation submits that the order impugned herein is a self demolition order and the petitioner may very well apply before the Tribunal assailing the same with the copy supplied to the petitioner.

As it appears that the petitioner has approached this Court within the statutory period for preferring the appeal before the Building Tribunal, accordingly, leave is granted to the petitioner to approach the Tribunal within the statutory period on the basis of the copy of the order dated 2nd June, 2022 that has been supplied to the petitioner.

The Tribunal is directed to register the appeal without insisting on the certified copy of the order impugned. The petitioner shall submit the certified copy of the order impugned as and when the same is made available by the department. The Tribunal shall decide the matter on merits.

It will be open for the petitioner to apply before the Tribunal praying for stay of operation of the impugned order of demolition.

The men and agents of the Kolkata Municipal Corporation are restrained to any further steps pursuant to the demolition order dated 2nd June, 2022 till 8th July, 2022 or until further order, whichever is earlier.

The Writ petition stands disposed of.

Affidavit of service filed in court be kept on record.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)