

D/L
Item No. 7
10.08.2022
KOLE

**MAT 1120 of 2022
With
IA No. CAN 1 of 2022**

**Smt. Sadhana Mukherjee & Anr.
-Vs.-
The Kolkata Municipal Corporation & Ors.**

*Mr. Sabir Ahmed,
Mr. S. Mukherjee,
Mr. I Chatterjee,
Mr. A. Rakib,*

...for the appellants.

*Mr. Gurudas Mitra,
Mr. S. De,*

...for the KMC.

By consent of the parties the appeal and the application are taken up for hearing together.

A judgment and order dated July 8, 2022, whereby WPA 14654 of 2022 was dismissed by the Learned Single Judge, is under appeal.

It appears that four persons approached the learned Single Judge by filing the present writ petition challenging an order of demolition dated March 2, 2022 passed by the Special Officer Building, Kolkata Municipal Corporation (in short 'KMC'), in respect of premises no. 23, Jadavgarh Colony, Ward No. 105, Borough-XII. The writ petitioners submitted before the learned Judge that the demolition order was passed without giving an opportunity of hearing to all of them.

It transpired that the petitioner nos. 3 and 4 had been notified by the Special Officer Building and they had full

knowledge of the hearing that the Special Officer Building offered. Whether or not they chose to attend such hearing is irrelevant. If they did not, it was at their own peril. The fact remains that they suppressed the aforesaid factum of having received notice from the Special Officer Building and did not mention such fact in the writ petition.

Upon learned Advocate for KMC bringing the facts before the learned Single Judge, the writ petitioner nos. 3 and 4 were transposed as respondent nos. 10 and 11. However, learned Judge dismissed the writ petition on the ground of suppression of material facts. The other two writ petitioners have come up in appeal before us.

Firstly, we find no infirmity in the order of the learned Single Judge. Litigants approaching a court of equity with unclean hands are not entitled to any relief. There was clear suppression of material facts before the learned Single Judge and the learned Judge was absolutely right in rejecting the writ petition on that ground.

Secondly, an order of demolition passed by the Special Officer Building is appellable under the KMC Act, 1980. In view of such alternative efficacious remedy being available to the appellants, there is no reason why the writ court should interfere. The order under appeal does not warrant interference.

The appeal and the connected application are accordingly dismissed. This will, however, not prevent the appellants from taking recourse to any other remedy they

may have in accordance with law before the appropriate forum.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Rai Chattopadhyay, J.) (Arijit Banerjee, J.)