

Sl. No.17
02.09.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 18182 of 2022

A. K. Augustine

vs.

The Kolkata Municipal Corporation & Ors.

Mr. Anirban Ghosh

Mr. Ann K. Augustine

... for the petitioner

Mr. Ranajit Chatterjee

Mr. Prasenjit De

... for Kolkata Municipal Corporation

None appears on behalf of the respondent no.5
despite service.

Affidavit of service filed in Court is taken on
records.

The petitioner is the occupier of the second floor
of the premises No.14, Mandeville Garden, Ward No.68,
Borough-VIII, under the jurisdiction of the Kolkata
Municipal Corporation.

The petitioner complains that water is leaking
from the third floor toilet above her flat in the second
floor and the same is causing damage to the premises of
the petitioner.

The men and agents of the Kolkata Municipal
Corporation inspected the said damaged portion and by
a communication dated 27th April, 2022 directed the flat
owners of the third floor being the respondent no.5

herein to repair the floor of the toilet so that leakage of water would not percolate to the toilet in the lower floor.

The petitioner complains that despite direction passed by the Executive Engineer, the respondent no.5 has not taken any steps to repair the damaged portion.

The petitioner relies upon provision of Section 316 of the Kolkata Municipal Corporation Act, 1980 and prays for a direction upon the Municipal Commissioner to invoke the said provision and take steps in the matter.

Section 316 mentions that when under the provision of the Act, any person may be required or is liable to execute any work, the Municipal Commissioner may in accordance with the provision of the Act cause such work to be executed after giving such person an opportunity of executing the same.

In the present case, opportunity was already given to the person responsible to repair the damaged portion, but the same has not been done till date.

In view of the above, the Municipal Commissioner being the respondent no.2 herein is directed to take steps in terms of Section 316 of the Kolkata Municipal Corporation Act, 1980 and execute necessary repairing work and recover charges from the person responsible as arrear of tax.

Steps shall be taken in the matter after giving a further opportunity to the private respondent no.5.

Steps shall be taken at the earliest but positively within a period of six weeks from the date of communication of this order.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)