

10.02.2022
Item No.2
srm

W.P.A. No. 17954 of 2019
Maksud Ali Molla
Vs.
The State of West Bengal & Ors.

Mr. R. I. Sarder
...for the Petitioner.

Mr. Alok Kumar Ghosh,
Mr. Fazlul Haque
...for the KMC.

Mr. Ayan Banerjee,
Mr. Suman Banerjee
...for the Respondent No.10.

Mr. Wasim Ahmed,
Mr. Touseef Ahmed Khan
...for the State-respondents.

This writ petition has been filed alleging inaction on the part of the Kolkata Municipal Corporation in implementing its own order of demolition passed sometime in February, 2017. The said order is annexed to the writ petition as annexure P3 at pages 23 and 24. According to the petitioner, the portion directed to be demolished under Part 'A' of the order had not been demolished, and the Kolkata Municipal Corporation allowed such unauthorised construction to continue. Aggrieved, the writ petition has been filed.

Mr. Ayan Banerjee, learned Advocate appearing on behalf of the person responsible/the respondent No.10, submits that upon compliance of Part 'A' of the order, the Kolkata

Municipal Corporation passed orders in terms of Part 'B'. It is further submitted that on the basis of the directions under Part 'B' of the order, structural certificate had been filed and the other requisite fees for retention have been deposited.

The petitioner denies such contentions. It is submitted by the petitioner, that the unauthorised construction remains. It is a matter of record that the petitioner is not aggrieved by Part 'B' of the order. The only question to be determined is whether the respondent No. 10 had actually complied with Part 'A' of the order or not. It further appears that the order mentioned that a demolition sketch may be issued only after compliance of Part 'A' and Part 'B' and that non-compliance of the order contained in Part 'A' would result in revocation and cancellation of the order in Part 'B', but the retention fees would not be refunded.

It is submitted by Mr. Banerjee that the retention fees have not been refunded and the order was neither revoked nor cancelled.

Mr. Ghosh, learned Advocate appearing on behalf of the Kolkata Municipal Corporation, submits that as the petitioner has raised a question of non-compliance of the Part 'A' order, the authorities of the Kolkata Municipal Corporation shall look into the grievance of the petitioner and pass a reasoned order after giving a hearing to the parties.

Having heard the rival contentions of the parties, this Court is of the opinion that the corporation must ascertain whether its own order had been complied with or not.

As such, the writ petition is disposed of with a direction upon the competent authority of the Kolkata Municipal Corporation to dispose of the demand of justice dated August 19, 2019 made by the petitioner's learned Advocate before the authority, in accordance with law. A reasoned order shall be passed upon hearing the parties. The reasoned order shall be communicated to the parties.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

This writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)