

Sl. No.20
02.09.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 20175 of 2022

Suman Saha
vs.
The Kolkata Municipal Corporation & Ors.

Mr. Gopal Chandra Das
... for the petitioner
Mr. Alok Kumar Ghosh
Mr. Swapan Kumar Debnath
... for Kolkata Municipal Corporation

The petitioner is aggrieved by the notice issued under Sections 544 and 546 of the Kolkata Municipal Corporation Act, 1980 dated 30th August, 2022 whereby the date of demolition of the alleged unauthorised construction at premises no.177, Vidya Sagar Sarani, Ward No.123, Borough-XVI of the Kolkata Municipal Corporation has been fixed on 2nd September, 2022.

The demolition order has been passed by the Special Officer (Building) on 25th February, 2020. The order of the Special Officer (Building) was however, communicated to the petitioner by a communicating letter dated 24th May, 2022. On receipt of the letter dated 24th May, 2022, the petitioner found that along with the forwarding letter the order of the Special Officer (Building) was not attached. The petitioner made

a representation before the Executive Engineer of the Kolkata Municipal Corporation in June, 2022.

Despite receipt of the aforesaid communication the Corporation did not forward the copy of the order passed by the Special Officer (Building), instead issued the notice of demolition.

The petitioner is aggrieved by the same.

It has been submitted that the petitioner intends to prefer an appeal against the order passed by the Special Officer (Building) but for want of the order of demolition, the petitioner is not in a position to approach the appellate forum.

Learned advocate representing the Kolkata Municipal Corporation submits that though the order was passed by the Special Officer (Building) on 25th February, 2020 but the same was forwarded to the petitioner after the said order was approved by the Mayor-in-Council in 2022.

As regards non-furnishing of the order of the Special Officer (Building), learned advocate for the Corporation has handed over the copy of the order passed by the Special Officer (Building) to the learned advocate appearing on behalf of the petitioner in Court today.

In view of the above, Kolkata Municipal Corporation is directed not to give any effect or further effect to the impugned notice issued under Sections 544

and 546 of the Kolkata Municipal Corporation Act, 1980 till 30th September, 2022.

In the event, no order of stay or modification is obtained by the petitioner in the meantime, the Corporation may proceed on the basis of the same.

The petitioner will be at liberty to approach the appropriate forum without waiting for the certified copy of the impugned order.

The Tribunal is directed to consider the appeal to be filed by the petitioner and pass order with regard to application for stay that may be filed by the petitioner on merits without insisting upon the certified copy of the impugned order.

The petitioner is directed to file the certified copy of the order passed by the Special Officer (Building) as soon as the same is made available by the department.

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.)