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08.09.2022
d.p.

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

W.P.A. 20471 of 2022

**Aloke Ghosh @ Gopal Ghosh
-versus
The State of West Bengal & Ors.**

**Mr. Supratik Basu,
Ms. Bratati Pramanick,
Mr. Shuvam Shaw.
...For the Petitioner.**

**Ms. Piyali Sengupta,
Mr. Ratul Das.
...For the State.**

**Mr. Rudranil Dey,
Mr. Dwijadas Chakraborty.
...For KMC.**

The petitioner is aggrieved by the notice dated 1st September, 2022 issued under Sections 544 and 546 of the Kolkata Municipal Corporation Act, 1980 intimating the petitioner that the men and agents of the Kolkata Municipal Corporation will enter into the premises being No. B/14A/H/11, Beer Para Lane, Kolkata-700030 for the purpose of demolition of the unauthorized/dangerous structure being the entire two storied R.C.C. framed structured building constructed without taking permission from the Corporation.

It appears that the order of demolition was passed on 3rd February, 2022 by the Executive Engineer (Building) under Section 400(1) of the Kolkata Municipal Corporation Act, 1980.

The petitioner has preferred a statutory appeal before the Municipal Building Tribunal on 12th April, 2022 along with the application for stay and an application under Section 5 of the Limitation Act.

The petitioner has annexed the copy of the orders dated 12th April, 2022, 24th May, 2022 and 1st August, 2022.

It appears therefrom that even though dates were fixed for hearing of the case by the Tribunal but the matter could not be heard due to want of case records.

As it appears that the petitioner did prefer a statutory appeal which is pending consideration before the Tribunal, accordingly, the Kolkata Municipal Corporation is directed not to take any coercive step pursuant to the impugned notice till 30th November, 2022.

It will be open for the petitioner to apply before the Tribunal for obtaining order of stay. In the event the petitioner fails to obtain any order of stay or any order setting aside the order of demolition, then it will be open for the Kolkata Municipal Corporation to proceed to execute the order of demolition in accordance with law.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)