

Sl. No.10
19.09.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A 21448 of 2022

Dolly Banerjee
Versus
State of West Bengal & Ors.

Mr. Supratik Basu
Mr. Shuvam Shaw

... for the Petitioner

Mr. Srijan Nayak
Mr. Jayanta Kumar Dhar

... for the Kolkata Municipal Corporation

The petitioner is aggrieved by the notice dated 12th 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 shall enter the premises no.B/15J/H/3, Ranee Branch Road, Ward No. IX, Borough-I, Kolkata-700 001, for demolition of the unauthorised structure, namely, entire two storied RCC framed building along with brick wall which was constructed without taking permission from the Corporation.

The said notice was issued in furtherance of the demolition order passed by the Executive Engineer (Building) on 12th August, 2022 under Section 400(1) of the Kolkata Municipal Corporation Act, 1980.

The petitioner submits that an appeal against the order of the Executive Engineer has been filed before the Municipal Building Tribunal on 23rd August, 2022 and date has been fixed for consideration of the said appeal on 7th November, 2022.

Prayer has been made for not giving any effect to the notice under Sections 544 and 546 of the Kolkata Municipal Corporation Act, 1980 till a decision is taken by the Municipal Building Tribunal.

Learned advocate representing the Kolkata Municipal Corporation submits that the order of demolition has been passed by the Executive Engineer as the construction was made without taking any permission from the Kolkata Municipal Corporation.

It appears that the petitioner has taken the risk to construct the building without obtaining any permission from the Kolkata Municipal Corporation and is presently facing an order of demolition. The order of demolition is however, pending scrutiny before the Municipal Building Tribunal in B.T Appeal No.158 of 2022 which is fixed for consideration on 7th November, 2022.

For ends of justice the men and agents of the Kolkata Municipal Corporation are restrained from giving any effect or further effect to the notice issued under Sections 544 and 546 of the Act till 30th November, 2022.

In the event, the petitioner fails to obtain any order setting aside/staying/modifying the order of demolition dated 12th August, 2022 within the said date, it will be open for the Corporation to proceed in accordance with the impugned notice in accordance with law.

The Municipal Building Tribunal is requested to proceed with consideration of the appeal strictly on merits and take a decision with regard to the prayer of the petitioner for stay of the impugned order of demolition at the earliest.

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.)