

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

W.P.A 21793 of 2022

**Prosenjit Gupta
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. Prasenjit Mukherjee,
Mr. Md. Shakir.
...For the Petitioner.**

**Mr. Dwijadas Chakraborty.
...For KMC.**

The petitioner is aggrieved by the notice issued under Sections 544 and 546 of the Kolkata Municipal Corporation Act, 1980 dated 14th September, 2022 intimating the petitioner that the men and agents of the Kolkata Municipal Corporation will enter into the Premises No.B/3/H/13, Raja Bagan Lane, Kolkata – 700030 on and from 21st September, 2022 for demolishing the unauthorized structure viz. the entire three storied R.C.C. frame structured building along with shuttering work at 3rd floor roof constructed without taking permission from the Kolkata Municipal Corporation, as per the order of demolition dated 18th April, 2022 passed by the Executive Engineer (Building).

Being aggrieved by the order of demolition, the petitioner has preferred an appeal before the Municipal Building Tribunal and the same is pending consideration.

It has been submitted that 7th November, 2022 is the date fixed for hearing of the appeal.

The application for stay is also pending consideration.

As it appears that the appeal preferred by the petitioner challenging the order of demolition is pending consideration at the end of the Municipal Building Tribunal and date has been fixed on 7th November, 2022, accordingly, demolishing the premises prior to the appeal being considered will render the appeal infructuous.

In view of the above, the concerned Executive Engineer is restrained from giving any effect and/or further effect to the order of demolition till 30th November, 2022 or until further order whichever is earlier.

The petitioner will be entitled to press the application for stay before the Municipal Building Tribunal and proceed with the same.

In the event the order of demolition is not set aside/varied or modified by the Municipal Building Tribunal by 30th November, 2022 it will be open for the men and agents of the Kolkata Municipal Corporation to proceed with the demolition work 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.)