

24.11.2022
Item No.10.
Suman
Ct..24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 25904 of 2022

Amrita Kumar Mondal @ Amrit Kumar Mondal
Vs.
The Kolkata Municipal Corporation and Ors.

Mr. Partha Pratim Dev Barman
Mr. Prosenjit Mukherjee
Md. Shakir
Mr. Saptarshi Chakraborty
...for the petitioner

Mr. Biswajit Mukherjee
Mr. Debangshu Mondal
..for KMC

The matter relates to the premises
No.B/1B/H/15, Umakanta Sen Lane, Ward No.4,
Borough -I under the jurisdiction of the Kolkata
Municipal Corporation.

The said building is suffering an order of
demolition passed by the Executive Engineer
(Civil), Building Department on 10th August,
2022.

An appeal has been preferred against the
order of demolition being B. T. Appeal No.189 of
2022. The appellant filed the appeal along with
the application praying for condoning the delay in

preferring the appeal and application seeking stay of the order of demolition.

The Tribunal on 29th September, 2022 rejected the application for stay and fixed 7th November, 2022 for considering the application praying for condoning the delay.

On 7th November, 2022 the appeal stood adjourned till 7th December, 2022.

In the meantime, notice under Sections 544 and 546 of the KMC Act, 1980 has been issued by the Executive Engineer (Civil) intimating that the demolition work will take place on 24th November, 2022.

If the alleged structure is demolished prior to the appeal being decided by the Tribunal, the appeal itself will be rendered infructuous. The Tribunal has fixed the appeal for consideration on 7th December, 2022. The Executive Engineer ought to wait to know the outcome of the appeal instead of taking steps for demolition of the alleged structure.

The Tribunal without disposing of the application praying for condoning the delay in filing the appeal has rejected the application for stay. In view of rejection of the application for

stay, the Tribunal is presently required to decide the application under Section 5 and the appeal.

It is expected that the Tribunal shall take steps to decide the appeal at the earliest. Notice under Sections 544 and 546 issued by the Executive Engineer on 19th November, 2022 shall be kept in abeyance till a decision is taken by the Tribunal in the pending appeal.

The Tribunal shall endeavour to dispose of the appeal positively within a period of three months.

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.)