

Item No. 29

22.12.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 27191 of 2022
Ramu Rajak
v.
State of West Bengal & Ors.

Mr. Abdul Hadi
Md. Tarique Masood
... for the petitioner.

Mr. Rajarshi Basu
Sk. Md. Masud
... for the State.

Mr. N.C. Bihani
Mr. Purnasis Bhuniya
... for KMC.

The petitioner is suffering an order of demolition dated November 1, 2022 passed by the Executive Engineer(C)/Bldg., Borough-IX.

Documents have been produced before this Court wherefrom it appears that the order of demolition dated November 1, 2022 was served upon the petitioner through post and the petitioner received the same on November 7, 2022.

The learned advocate for the petitioner submits that he is aggrieved by the order of demolition but could not take steps to prefer an appeal within the prescribed time limit because the petitioner was suffering from certain ailments. No document in support of the ailments of the petitioner is produced before this Court.

Admittedly, the order of demolition is an appealable one and the period prescribed for preferring the appeal is thirty days from the date of the order. The said time period has already expired. Accordingly, the notice under Sections 544 and 546 of the Kolkata Municipal Corporation Act, 1980 was issued intimating the schedule of demolition.

The date fixed for demolition as appearing in the notice under Sections 544 and 546 is over.

It will be open for the petitioner to challenge the order of demolition dated November 1, 2022 before the appropriate forum in accordance with law, if so advised.

It will also be open for the petitioner to make application seeking condonation of the delay in preferring the appeal.

The appropriate forum shall decide the issue on merits.

The men and agents of the Corporation are directed to restrain themselves from proceeding any further for executing the order of demolition till January 31, 2023. In the event, the petitioner fails to obtain any order of stay by January 31, 2023, it will be open for the Corporation to proceed to execute the order of demolition in accordance with law.

The writ petition stands disposed of.

Instruction given by the Assistant Engineer(C)/Bldg. Department, Borough-IX signed on December 10, 2022 along with the order of demolition dated November 1, 2022 and the postal track report

showing delivery of the order upon the petitioner are retained with the records.

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

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(Amrita Sinha, J.)