

Item No. 20

19.12.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 28089 of 2022
Sheikh Amir Hossain

v.

The Kolkata Municipal Corporation & Ors.

Mr. Biswarup Biswas
Mr. Kajal Ray
Mr. Aditya Sen
... for the petitioner.

Mr. Dwijadas Chakraborty
Mr. Sabnam De
... for KMC.

The writ petition has been filed challenging the notice under Sections 544 and 546 of the Kolkata Municipal Corporation Act, 1980 dated December 12, 2022 signed by the Assistant Engineer (C) Building Department, Borough-IX, Kolkata Municipal Corporation. The said notice mentions that men and agents of the Kolkata Municipal Corporation will enter the Premises No. 13A, Mansatala Lane, Ward No. 77, Borough-IX on December 19, 2022 for the purpose of demolishing the unauthorized structure as directed to be demolished by the Special Officer by order dated April 21, 2022 under Section 400(1) of the KMC Act, 1980.

The learned advocate for the petitioner submits that the said notice was received by the petitioner on December 15, 2022.

Learned advocate for the petitioner submits that no notice of the demolition proceeding was served upon the petitioner and the petitioner was never made aware

of any demolition proceeding initiated to deal with the alleged unauthorized construction at the subject premises.

On a perusal of the said notice it appears that the names of the persons responsible for making unauthorized construction is not mentioned therein.

The demolition case number in respect of which the order of demolition was passed is neither mentioned.

The notice has been addressed to the owners and occupiers of the said premises without specifying the details.

Till the authority is able to identify the persons responsible for making construction and serve proper notice upon the said persons, the notice will be bad in law.

It appears that the notice is an incomplete one, devoid of the relevant details.

In view of the above, the notice cannot stand in the eye of law and is liable to be set aside.

Accordingly, the notice impugned dated December 12, 2022 is set aside.

The concerned engineer of the Kolkata Municipal Corporation shall take steps in accordance with law to take necessary consequential steps pursuant to the order of demolition, if any, upon giving prior notice to the person responsible for making unauthorized construction.

The writ petition stands disposed of.

Affidavit-of-service filed in Court today is taken on record.

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.)