

List dt.6.6.22
Item No. 310
29.06.2022
d.p.

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

W.P.A. 11410 of 2020

**Masum Ali Mullick & Ors.
-versus
The Commissioner, the Kolkata
Municipal Corporation & Ors.**

**Mr. Avijit Roy,
Mr. Indrajit Sen,
Mr. S. Medda.
...For the Petitioners.**

**Mr. Bibek Jyoti Basu,
Mr. Uttam Kumar Dey.
...For the State.**

**Mr. Alok Ghosh,
Mr. Subhrangsu Panda.
...For KMC.**

**Mr. Md. Shajahan,
Ms. Sanjida Sultana.
...For the Private respondents.**

Affidavit-of-service and the supplementary affidavit filed in Court today are taken on record.

The vakalatnama on behalf of the private respondents has not been filed till date.

The petitioners have filed the present writ petition praying for a direction upon the Kolkata Municipal Corporation to demolish the dilapidated and the dangerous portion of the building situated at premises No. 61, Rafi Ahmed Kidwai Road, Kolkata-700016.

It has been submitted by the learned advocate appearing for the petitioners that during the pendency of the writ petition, a hearing was conducted by the Kolkata Municipal Corporation on 20th April, 2022 where the owners as well as the tenants of the aforesaid premises were present.

Upon hearing all the parties, the Deputy Chief Engineer (Civil/Building/Br/-VI) has passed order on 25th April, 2022 by declaring the said premises to be a condemned building and the owners and the occupiers of the building have been directed to vacate the premises within thirty days from the date of service of the notice and to demolish the building forthwith after thirty days.

The owners have been offered an option for reconstruction of the building in accordance with the plan to be sanctioned by the Corporation by providing floor area to accommodate the erstwhile tenants/occupiers and additional floor required for recovery of expenses for construction.

Learned advocate appearing for the respondent Nos. 7 and 8 submits that there are tenants of the said premises for more than last 50 years.

It has been submitted that it is a ploy by the owners to dispossess and get rid of the tenants without adhering to the due process of law.

According to the provision of Section 412(3) of the Kolkata Municipal Corporation Act, the Municipal Commissioner shall, on the application of any person who has vacated or has been removed from any building in pursuance of any order or any direction, as

the case may be, under this section, reinstate such person in the building as soon as the circumstances permit.

It will be open for the respondent Nos. 7 and 8 to approach the Municipal Commissioner with their prayer for reinstatement and in the event any plan proposal is placed before the Corporation for sanction of building or for development of the aforesaid premises, then the Municipal Commissioner shall ensure that the person(s) who have vacated or have been removed from the aforesaid premises is reinstated in the building as soon as the circumstances permit.

As it appears that the Kolkata Municipal Corporation has already granted relief to the petitioners by passing necessary order declaring the building to be condemned and further directing demolition of the said building, accordingly, no further order is required to be passed in the present writ petition.

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.)