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ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO No. 528 of 2022
GULMARG ESTATES PRIVATE LIMITED
VERSUS
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : 27th January, 2022.

[Via Video Conference]

Appearance:

Mr. Arindam Banerjee, Adv.

Ms. Arpita Saha, Adv.

Mr. Asish Kumar Mukherjee, Adv.

Mr. Saurabh Prasad, Adv.

For the petitioner.

Mr. Purnendu Das, Adv.

Mr. Kinjal Kumar Baral, Adv.

For the respondent nos.4 to 11.

Mr. Alok Kumar Ghosh, Adv.

Mr. Swapan Kumar Debnath, Adv.

For the K.M.C.

The Court: Affidavit of service filed in Court is taken on
record.

The petitioner has prayed for a direction upon the Kolkata
Municipal Corporation to implement the order of demolition dated

December 10, 2016 passed by the Joint Municipal Commissioner (Revenue and Supply), Kolkata Municipal Corporation.

It has been specifically contended by the petitioner that the appeal from the said order of demolition has been dismissed for default and as such there cannot be any reason why the Kolkata Municipal Corporation should not proceed with the demolition as per the direction of the Joint Municipal Commissioner (R & S).

Mr. Purnendu Das, learned Advocate appearing on behalf of the respondent nos. 4 to 11, has submitted that an application for restoration of the said appeal has been filed before the learned Municipal Building Tribunal and the same will be heard out shortly.

Mr. Ghosh, learned Advocate appearing for the Kolkata Municipal Corporation, also submits that the date has been fixed for hearing of the restoration application by the learned Tribunal.

Having heard the contentions of the parties, this Court is of the opinion that justice would be sub-served, if the writ petition is disposed of with a direction upon the learned Municipal Building Tribunal, to dispose of the restoration application on its own merits on the next date fixed or within two weeks thereafter, peremptorily. The Court has taken notice of the fact that the tribunal appeal was adjourned on many occasions because the respondent nos. 4 to 11 had failed to appear on the dates fixed. Ultimately, finding no other alternative, the appeal was dismissed for default.

As the respondent nos. 4 to 11 have already approached the Court in accordance with law by filing an application for restoration, the learned Tribunal must be allowed to hear out the said application in accordance with law and pass its order.

If the Tribunal decides to restore the tribunal appeal, in that case, the appeal shall be disposed of within a period of three months from the date of restoration of the same.

It is made clear that the respondent nos. 4 to 11 shall cooperate with the learned Tribunal and no unnecessary adjournments shall be granted to either of the parties.

This Court has not gone into the merits of the issues involved in the proceedings before the learned Tribunal.

Accordingly, WPO No. 528 of 2022 is disposed of.

All parties are to act on the basis of the server copy of this order.

(SHAMPA SARKAR, J)