

OD-1(supplementary list)

ORDER SHEET

WPO/820/2022

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

MANASH CHATTERJEE

Versus

THE STATE OF WEST BENGAL & ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : 8th February, 2022.

[Via Video Conference]

Appearance:

Mr. Raghunath Chakraborty, Adv.

Ms. Sonali Sengupta, Adv.

Ms. Mohini Mondal, Adv.

For the petitioner.

Mr. Ambar Nath Banerjee, Adv.

For the respondents/KMC.

Mr. Debjit Mukherjee, Adv.

Ms. Susmita Chatterjee, Adv.

For the State.

The Court :- The order impugned in the writ petition is an order of demolition passed by the Executive Engineer (Civil/Building), Borough-III of the Kolkata Municipal Corporation. The petitioner has challenged a notice dated January 29, 2021 issued by the Assistant Engineer (C) Kolkata Municipal Corporation, Br.-III, directing the petitioner to demolish the unauthorized portion. It has further been submitted that the petitioner recently has received another notice from

the Corporation directing the petitioner to demolish the unauthorized structure.

The order of demolition is an appealable order. The notices have been issued to the petitioner only as a consequence of the demolition proceedings. The petitioner's remedy under the law against such demolition order, is before the learned Municipal Building Tribunal.

It is submitted by the petitioner that an appeal being Appeal No. BTA 16 of 2022 has already been filed before the Municipal Building Tribunal sometime in February, 2022. The petitioner has not been able to get the matter listed and heard and as such the prayer for an interim protection could not be made before the learned Tribunal. It is further submitted that the learned Tribunal had not been sitting regularly due to the rise in Covid-19 infections.

Having appreciated the contentions of the petitioner that the matter could not be heard by the learned Tribunal in view of the intermittent functioning of the Tribunal, this Court is of the opinion that the Kolkata Municipal Corporation should stay its hands with regard to the implementation of the order of demolition for a period of two months from date.

Liberty is granted to the petitioner to make an appropriate prayer before the learned Tribunal for interim orders upon notices to the Corporation and the said prayer shall be disposed of by the Tribunal in accordance with law and independently, without being influenced by any

observation made in this order. If the appellant/writ petitioner fails to obtain any interim order, then the Corporation may proceed in accordance with law, after expiry of the afore-mentioned period.

This Court has not expressed any opinion with regard to the merits of the case of the petitioner. This order will not be construed as an observation on the claims of the petitioner for interim order or as a direction upon the Tribunal to pass appropriate order.

The notices impugned before this Court shall not be given effect to by the Corporation for a period of two months.

As the matter is being heard in the presence of the learned Advocate for the Corporation, Mr. Chakraborty and Mr. Banerjee shall communicate this order to the respondent nos.5 and 6.

This writ petition is, thus, disposed of.

There will be no order as to costs.

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

(SHAMPA SARKAR, J)