

OD-3

ORDER SHEET

WPO/1194/2022

IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
ORIGINAL SIDE

SUSHANTA BISWAS  
Versus  
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:  
The Hon'ble JUSTICE SHAMPA SARKAR  
Date : 7<sup>th</sup> March, 2022.

[Via Video Conference]

Appearance:  
Mr. P.S. Deb Barman, Adv.  
Mr. Amit Gupta, Adv.  
For the petitioner.

Mr. Swapan Kumar Debnath, Adv.  
Mr. Syed Nasirul Hossain, Adv.  
For the K.M.C.

The Court :- The order impugned before this Court is an order of the Executive Engineer[C]/Building Department, Borough-III of the Kolkata Municipal Corporation dated February 22, 2022.

According to the petitioner, the Corporation had given only five days' time to the petitioner to demolish the alleged unauthorized portion of the building, without allowing the petitioner the time under the statute, to prefer an appeal.

As the order of demolition is an appealable order, this Court is of the opinion that the petitioner should prefer an appeal against the order

of demolition before the learned Municipal Building Tribunal in accordance with law. Such appeal shall be filed within a period of 10 days from date on the basis of a photocopy of the order, if the certified copy has not yet been received. As and when the said certified copy is received, the same shall be filed before the learned Tribunal.

The order of demolition shall remain stayed unconditionally for a period of two months within which time the person responsible/appellant shall be at liberty to apply for such interim orders as permitted by law. The application for such interim order shall be filed upon notice to the Corporation. The learned Tribunal shall hear out the said application in accordance with law and independently without being influenced by any observation made in this order. If the appellant fails to obtain any interim order, then the Corporation may proceed in accordance with law.

This Court has not gone into the merits of the order of demolition and all points are to be decided by the learned Tribunal, including the point of maintainability of the appeal.

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)