

OD-8

ORDER SHEET

WPO 1830 of 2022

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

ARATI AGARWAL
VERSUS
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date : 5th May, 2022.

Appearance:
Mr. Rupak Ghosh, Adv.
Mr. Abhijit Sarkar, Adv.
For the petitioner.

Mr. Chittapriyo Ghosh, Adv.
Ms. Priyanka Saha, Adv.
Mr. Gourab Ghosh, Adv.
For the respondent nos. 5 to 10.

Mr. Ranajit Chatterjee, Adv.
Mr. Subhranshu Panda, Adv.
For the K.M.C.

The Court: This writ petition has been filed for a direction upon the respondents authorities to forthwith issue orders in terms of Sections 411(4) and 412 of the Kolkata Municipal Corporation Act, 1980 with regard to vacating the premises No. 86, Tarak Pramanik Road, Kolkata 700 006, upon evicting the occupiers. A similar prayer was made before this Court on an earlier occasion by filing WPO/228/2021. This Court had directed the Municipal Commissioner to pass necessary direction so that the interest of all the parties would be protected. It is

not in dispute that the Kolkata Municipal Corporation had issued notice under Sections 411(1) and 411(2) of the Kolkata Municipal Corporation Act, 1980 for demolition of the building, which was in a dilapidated condition.

Pursuant to the order of this Court dated July 20, 2021 passed in WPO/228/2021, the Municipal Commissioner had passed an order directing the petitioner to submit a scheme in respect of shifting charges, rehabilitation and compensation to be paid to the tenants during the period of construction etc. and the plan for reinstatement of those tenants in the proposed newly constructed building before the Corporation. It is alleged that the Corporation failed to vacate the premises upon consultation with the occupiers, even after the scheme was filed before the Corporation.

The Corporation authorities remained silent and as such, the writ petition has been filed for certain directions.

Mr. Chittapriyo Ghosh, learned Advocate appearing on behalf of the respondent nos. 5 to 10, submits that some of the occupiers are objecting to the proposed scheme on the ground that the owner has not undertaken to give them a space in the front of the proposed building. Thus, the occupants are opposing the request of the landlord to vacate the premises.

The owner undertakes as follows:-

- a) To rehabilitate the tenants/present occupiers in individual shops/space to be constructed in the ground floor, of the same size as are being enjoyed now.
- b) Compensations for shifting to other tenanted premises as selected by the tenants, will be paid.
- c) The monthly rent will be paid to the tenants in terms of the rehabilitation scheme proposed.
- d) If the building is not completed within the stipulated period of approximately three years, enhanced rent at the market rate shall be paid.
- e) If any advance is to be deposited by the tenants at their rental accommodation, the same shall also be paid.
- f) The front of the new building in the ground floor shall not be used for any business purpose and only garage space shall be constructed thereupon.

The Court does not find the proposal of the owner to be unreasonable. It is stated that the garages have to be constructed as per the building rules of the Corporation. Apart from the garage no other construction shall be made on the ground floor which was likely to affect the business of the tenants. The shop rooms to be handed over to the tenants and the garages would be the only construction, proposed to be made in the ground floor.

Under such circumstances, the writ petition is disposed of with the following direction:-

- a) The respondent nos. 5 to 10 shall vacate the premises within two months from date.
- b) The respondent nos. 5 to 10 will be paid the shifting charges by the petitioner. The said respondents shall make alternative arrangement on their own, but the advance rent (security deposit) and the monthly rent shall be borne by the owner/petitioner.
- c) The owner shall request the electricity department for disconnection of the electric supply by communicating a copy of this order after the period of two months.
- d) The Corporation shall be at liberty to disconnect the water supply after two months. Thereafter, the Corporation shall undertake the function of demolition of the premises in question.
- e) The costs of demolition and other connected ancillary charges in this regard, shall be borne by the owner.
- f) The Corporation will also sanction the revised plan of the proposed building in accordance with law, within three months from the date of such application.
- g) The authorized representative of the Corporation shall cause an inspection of the premises in question in presence of the parties to ascertain the quantum of space/shops that will be handed over to the tenants, as would be depicted in the revised plan.

- h) The owner shall be at liberty to approach the Corporation for further instructions and assistance, as and when the occasion so arises.

WPO No. 1830 of 2022 is, thus, disposed of accordingly.

Parties to act on a server copy of this order.

(SHAMPA SARKAR, J)

snn.