

OD-1

ORDER SHEET

WPO/598/2017
IA No. GA/3/2022

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

2, J.L. NEHRU ROAD
TENANT WELFARE ASSOCIATION & ORS.
Versus
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : 4th May, 2022.

Appearance:
Ms. Arpita Saha, Adv.
For the petitioners.

Mr. Rohit Das, Adv.
Ms. Kishwar Rahman, Adv.
Mr. Pranit Biswas, Adv.
Mr. Preetam Majumdar, Adv.
For the Decree-Holders/Intervenors.

Mr. Alok Kumar Ghosh, Adv.
Mr. Swapan Kumar Debnath, Adv.
Mr. Gopal Chandra Das, Adv.
For the K.M.C.

The Court: The petitioners are occupiers of premises No. 2, Jawaharlal Nehru Road, Kolkata-70013. The said premises is being used for their respective businesses. The Kolkata Municipal Corporation served a notice upon the occupiers/owners of premises No. 2, Jawaharlal Nehru Road some time on January 19, 2017. The owners/occupiers were asked to repair the reparable portion and demolish the insecured and

dangerous portions, under the supervision of an empanelled structural engineer of the Kolkata Municipal Corporation. The petitioners submit that two structural engineers appointed by the occupants have furnished two reports to show that the building was structurally safe and there was no need for any demolition. However, certain directions have been given with regard to the repairing work to be undertaken by the occupiers.

The allegation is that such reports, which are at pages-46 and 53 of the writ petition, have not been accepted by the Corporation on the ground that an eviction decree had been passed against the occupiers/petitioner.

The petitioners submit that the order passed in the execution proceedings has been set aside and the appellate court has directed the execution proceedings to be decided afresh.

Under such circumstances, the petitioners continue to be the occupiers of the premises, till such time the proceedings are concluded.

Mr. Ghosh, learned Advocate appearing for the Corporation, submits that the occupiers or the owners are at liberty to comply with the direction of the Corporation as per the notice under Section 411(1) of the Kolkata Municipal Corporation Act, 1980. According to Mr. Ghosh, the notice has to be complied with in order to protect the building and also to ensure the safety and security not only of the occupants, but also the persons who reside in the locality.

Mr. Das, learned Advocate appears on behalf of the decree-holder and seeks to intervene in the proceedings. An application for addition of party has also been filed.

Under such circumstances, the writ petition is disposed of with a direction upon the petitioners to submit the reports prepared at their instance before the competent authority of the Kolkata Municipal Corporation within 10 days. The said authority shall consider the reports and thereafter issue further directions to the petitioners in this regard. On the basis of the direction that may be issued by the Corporation, the occupiers shall take further steps with regard to securing the building either by repair and/or demolition as may be directed.

However, it is made clear that as the civil suit is pending between the petitioners and the decree-holders/intervenors, no equity shall be claimed by the petitioners in respect of any repairs or reconstruction that may be made pursuant to further orders of the Corporation.

This Court has not gone into the merits of the issues involved.

The writ petition is disposed of accordingly.

With the disposal of the writ petition, the connected application (IA No. GA/3/2022) is also disposed of.

As no affidavit has been called for in this connected application, the allegations made in the connected application are deemed to have been denied.

(SHAMPA SARKAR, J)