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ORDER SHEET
WPO No.2239 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

KISHAN KUMAR LOHIA @ KRISHNA KUMAR LOHIA
Vs.
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 8th June, 2022.

Appearance:
Mr. Raghunath Chakraborty, Adv.
Mr. Arun Goswami, Adv.
Mr. Bratin Kumar Dey, Adv.
Ms. Anjana Banerjee, Adv.
..for the Petitioner.

Mrs. Sima Chakraborty, Adv.
Ms. Sabnam De, Adv.
...for KMC.

The Court:-The petitioner being principally aggrieved by the order of demolition issued under Section 400(1) of the Kolkata Municipal Corporation Act, 1980 dated 7th April, 2022 by the Executive Engineer (Civil) Building, Borough 1, Kolkata Municipal Corporation whereby the petitioner has been directed to demolish the unauthorised construction being carried on at the premises No.28(Portion), B.T. Road, Ward No.001, Kolkata- 700 002, Borough 1 as being without sanction of the building permit from the Kolkata Municipal Corporation, Building Department filed the present writ petition.

The said order of demolition mentions that the construction made at the said premises is unauthorised and illegal and the same is required to be demolished immediately. Five days' time was granted for demolition of the

unauthorised construction failing which the Kolkata Municipal Corporation authority would demolish the said construction.

A further notice under Sections 544 and 546 of the Kolkata Municipal Corporation Act, 1980 dated 31st May, 2022 was issued by the Executive Engineer (Civil), Building Department, Borough 1 wherein it has been mentioned that powers have been delegated by the Commissioner of the Corporation upon the Assistant Engineer (Civil) to enter into the premises with necessary assistants and workmen on and from 9th June, 2022 for the purpose of demolishing the unauthorised/dangerous structure in respect of the entire two storied R.C.C. framed structured building which was constructed without taking permission from the Kolkata Municipal Corporation

Being aggrieved by the order dated 7th April, 2022 and the subsequent notice dated 31st May, 2022 the petitioner has approached the Municipal Building Tribunal of the Kolkata Municipal Corporation by filing appeal being B. T. Appeal No.99 of 2022 and the date of consideration of the appeal has been fixed on 22nd July, 2022.

The petitioner apprehends that if the demolition work is initiated prior to the appeal being taken up for consideration by the learned Tribunal, the said appeal will become infructuous.

Learned Advocate representing the Kolkata Municipal Corporation submits, upon instruction that, a new two storied building is being constructed at the said premises without obtaining any sanction plan from the Kolkata Municipal Corporation.

As it appears that the order of demolition is an appealable one and the petitioner has already preferred an appeal before the learned Tribunal, accordingly, men and official of the Kolkata Municipal Corporation are restrained from taking further steps in response to the impugned order dated 7th April, 2022 and the impugned notice dated 31st May, 2022 till 31st July, 2022 or until further order whichever is earlier.

The Municipal Building Tribunal is requested to consider the preliminary prayer to the petitioner for stay of the impugned order and the impugned notice on the date fixed for consideration of the appeal i.e. on 22nd July, 2022 and pass necessary order therein.

The writ petition stands disposed of.

Affidavit of service filed in Court today is taken on record.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on compliance of all necessary formalities.

(AMRITA SINHA, J.)