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ORDER SHEET

WPO No. 2347 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

15, NOORMAL LOHIA LANE TENANTS'
WELFARE ASSOCIATION & ANR.
-Versus-
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 20th July, 2022.

Appearance:
Mr. Arindam Banerjee, Adv.
Mr. Sarosij Dasgupta, Adv.
Mr. Bimalendu Das, Adv.
Mr. Shomrik Das, Adv.
...for Petitioners.

Mr. Alok Kumar Ghosh, Adv.
Mr. Debangshu Mondal, Adv.
...for KMC.

Mr. Sakya Sen, Adv.
Mrs. Sima Chakraborty, Adv.
...for Respondent Nos. 6 to 13.

Mr. Debjit Mukherjee, Adv.
Mrs. Susmita Chatterjee, Adv.
...for State.

The Court:-The matter relates to the premises No.15, Noormal Lohia Lane, P.S.-Burrabazar, Ward-42, Borough-V, Kolkata- 700007 under the jurisdiction of the Kolkata Municipal Corporation.

The petitioner No.1 is the Tenants' Welfare Association of the said premises and the petitioner No.2 is its President.

Grievance of the petitioners is that the landlords have not taken any steps for maintaining the said property and accordingly portions of the said property are in a very dilapidated condition. The tenants have taken

steps for maintaining their portion but the overall condition of the building is not very healthy.

However, according to the petitioners, the premises can be repaired. The petitioners made representation before the Kolkata Municipal Corporation seeking permission to repair the same and alleges that the same has not been taken into consideration till date.

Learned Advocate representing the Respondent Nos.6 to 13, i.e. the owners of the said premises, submits that a notice under Section 412A(i) of the Kolkata Municipal Corporation Act, 1980 has been issued in favour of the owners on 24th May, 2022.

Learned Advocate representing the Kolkata Municipal Corporation has filed a report before this Court signed by the Assistant Engineer (Civil), Building Department, Kolkata Municipal Corporation and the Executive Engineer (Civil), Building Department, Kolkata Municipal Corporation, Borough-V dated 19th July, 2022 wherein it has been mentioned that the five storied building is very old and in ruinous and dilapidated state. There are chances of portions of the building collapsing any day. The building is not safe for habitation of the inmates and poses threats to the neighbouring premises. The Kolkata Municipal Corporation has declared the building as dangerous building and intimated Burrabazar Police Station about the same. It will not be conducive to public interest and may also cause hardship to the persons in occupation of the building as the same may collapse any day.

The landlords and the tenants both have relied upon separate reports from the Structural Engineers. The reports are contradictory to each other.

As it appears from the documents produced before this Court and upon hearing the submissions made on behalf of the parties that the Kolkata Municipal Corporation has already issued notice under Section 412A(i) of the Act, accordingly, the Kolkata Municipal Corporation is directed to conclude the said proceeding strictly in accordance with aforesaid provision of law, after giving a reasonable opportunity of hearing to the owners as well as the tenants/occupiers or their representatives.

Learned Advocate representing the members of the petitioner No.1 submits that the show cause notice under Section 412A(i) of the Act has not yet been served upon the occupiers of the said premises. A copy of the notice issued in favour of the landlords under Section 412A(i) has been handed over to the learned Advocate representing the petitioners in Court today. The members of the petitioner No.1 will be at liberty to respond to the said notice.

The Kolkata Municipal Corporation shall take necessary steps to act strictly in accordance with law at the earliest to prevent any untoward incident.

As the writ petition is being disposed of without calling for any affidavits, allegations made therein are deemed not to have been admitted by the respondents.

Report dated 19th July, 2022 filed in Court today by the Assistant Engineer (Civil), Building Department, Kolkata Municipal Corporation and the Executive Engineer (Civil), Building Department, Kolkata Municipal Corporation is taken on record.

Report dated 19th July, 2022 filed in Court today by the Officer-in-Charge, Burrabazar Police Station is also taken on record.

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

The writ petition stands disposed of.

Urgent photostat certified copy of this order, is applied for, be supplied to the parties upon completion of usual legal formalities.

(AMRITA SINHA, J.)

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