

WPO No. 2371 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

GULMARG ESTATES PRIVATE LIMITED
-Versus-
THE KOLKATA MUNICIPAL CORPORATION & ORS.

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

Appearance:

Mr. Arindam Banerjee Adv.
Ms. Arpita Saha, Adv.
Mr. Ashis Kr. Mukherjee, Adv.
Mr. Saurabh Prasad, Adv.
...for Petitioner.

Mr. Alok Kumar Ghosh, Adv.
Mr. Swapan Kr. Debnath, Adv.
Mr. Debangshu Mondal, Adv.
...for KMC.

Mr. Arif Ali, Adv.
Mr. Sayantak Das, Adv.
...for Respondent nos.4 to 11.

The Court:-Petitioner has filed the present writ petition as the order passed by this Court on 27th January, 2022 in WPO No. 528 of 2022 has not been followed by the Municipal Building Tribunal for taking a decision with regard to the restoration application filed by the private respondents in the appeal being B. T. Appeal No.03 of 2017 pending before the Municipal Building Tribunal.

This Court by an order dated 27th January, 2022 directed the Municipal Building Tribunal to dispose of the restoration application on its own merits on the next date fixed or within two weeks thereafter, peremptorily. The Court further directed that if the Municipal Building Tribunal decides to restore the

appeal, in that case the appeal shall be disposed of within a period of three months from the date of restoration of the same.

Petitioner has annexed the copy of the orders passed by the Tribunal from 20th December, 2021 to 14th June, 2022. On perusal of the same, it appears that the Municipal Building Tribunal is yet to dispose of the application for restoration.

In view of the application for restoration remaining pending, the time frame fixed by this Court to dispose of the appeal is being extended indirectly.

It appears from the aforesaid order sheets that the private respondents, that is, the appellants before the Municipal Building Tribunal are trying to delay the appeal. The action on the part of the Municipal Building Tribunal in not disposing of the application for restoration is given a handle to the appellants therein for seeking extension of time for deciding the appeal on merits.

As the Court passed direction upon the Municipal Building Tribunal to dispose of the restoration application within a specified time period, accordingly, the Municipal Building Tribunal is directed to dispose of the application for restoration positively on 31st August, 2022 when the appeal and the application are fixed for consideration before the Municipal Building Tribunal.

If the Municipal Building Tribunal intends to restore the appeal, then the appeal itself shall be disposed of within a period of three months from such date of restoration of the appeal.

It is the bounden duty of the Municipal Building Tribunal to abide by the time frame fixed by this Court in deciding the issues pending before the Municipal Building Tribunal.

The appellants therein are directed to extend full cooperation in deciding the pending appeal and not seek for unnecessary adjournments in hearing the appeal.

The writ petition stands disposed of.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)