

OD-5

ORDER SHEET

WPO No. 2403 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SATYA RANJAN DAS
-Versus-
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 12th August, 2022.

Appearance:
Mr. P. S. Deb Barman, Adv.
Mr. Amit Gupta, Adv.
...for Petitioner.

Mr. Swapan Debnath, Adv.
Ms. Sabnam De, Adv.
...for KMC.

The Court:-The petitioner is aggrieved by the order of demolition under Section 400(1) of the Kolkata Municipal Corporation Act, 1980 issued by the Executive Engineer (Civil)/Building, Borough-III, Kolkata Municipal Corporation on 20th July, 2022.

By the said order the person responsible has been directed to demolish the illegal construction of about 312 sq. meter in the premises no.6C/1, Motilal Sen Lane, Ward No.30, Borough-III, Kolkata-700054 within five days from the date of receipt of the order failing which the Kolkata Municipal Corporation will demolish the said construction and recover costs from the person responsible.

Learned Advocate appearing for the petitioner submits that the order is an appealable one and the petitioner intends to prefer an appeal against the

order of demolition. Time to file the appeal is thirty days. The order of demolition has been directed to be executed within a period of five days only. The petitioner submits that he is entitled under law to challenge the order impugned before the Appellate forum.

As it appears from the submissions made on behalf of the parties that the order is an appealable one and the time to prefer an appeal is thirty days, accordingly, it will be open for the petitioner to approach the Appellate forum in accordance with law.

In the event, the petitioner approaches the Tribunal challenging the order dated 20th July, 2022 allegedly received by the petitioner on 22nd July, 2022 within 22nd August, 2022, then the Tribunal shall decide the appeal on merits.

The Tribunal is directed to accept the appeal without insisting on the certified copy of the order impugned. The petitioner shall submit the certified copy of the order impugned before the Tribunal as soon as the same is made available by the department.

The Tribunal shall ensure to dispose of the application for stay, if any, to be filed by the petitioner herein within 31st August, 2022 and shall endeavour to dispose of the appeal within 23rd December, 2022.

It is made clear that this Court has not entered into the merits of the case of the petitioner and all points are left open to be decided by the Tribunal at the time of consideration of the appeal to be filed by the petitioner herein.

Men and agents of the Kolkata Municipal Corporation are restrained from giving any effect to the impugned order of demolition dated 20th July 2022 till 31st August, 2022 or until further order passed by the Tribunal in the appeal to be preferred by the petitioner.

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 upon completion of usual legal formalities.

(AMRITA SINHA, J.)