

ORDER SHEET
WPO/2520/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

MD JAMIL
VS
KOLKATA MUNICIPAL CORPORATION AND ORS

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

Appearance:
Mr. Gopal Chandra Das, Adv.
Mr. Fasiur Rahman Molla, Adv.
...For the Petitioner

Mr. Ranajit Chatterjee, Adv.
Ms. Piyali Sengupta, Adv.
...For KMC

The Court: Instruction has been supplied by the Executive Engineer (Civil), Building Department, Borough-III.

It appears therefrom that pursuant to the order passed by this Court on 18th January, 2022, a joint inspection was held on 11th February, 2022 after issuing notice to the parties. The petitioner was present at the time of joint inspection.

It was revealed that there is a G+II storied unauthorized RCC frame structure with some illegal construction at the third floor. Copy of the inspection report was handed over to the petitioner. A hearing under Section 400 was held on 26th May, 2022 after issuing notice to the petitioner. The petitioner was present at the hearing held on 26th May, 2022. He failed to produce any document in support of the construction made. A copy of the sketch map was also prepared and supplied to the petitioner in terms of the order passed by this Court

on 18th January, 2022. Thereafter a self-demolition notice was issued. As the petitioner failed to comply with the self-demolition notice, accordingly, the Corporation fixed a date of demolition on 5th September, 2022.

The petitioner challenged the notice of demolition and this Court by order dated 5th September, 2022 restrained the Corporation from giving any effect to the demolition order.

It appears that the petitioner has already preferred an appeal before the Municipal Building Tribunal being BT Appeal No. 121 of 2022 and the same is pending consideration.

Learned advocate appearing for the petitioner submits that the date for hearing the application praying for condoning the delay in preferring the appeal is fixed next week.

Apparently it appears that there is no error on the part of the Kolkata Municipal Corporation in issuing the impugned notice under Sections 544 and 546 of the K.M.C. Act, 1980.

For the ends of justice, the Corporation is directed not to take any coercive step in the matter till 30th September, 2022. By that time if the petitioner fails to obtain any order of stay/variation/modification of the order of demolition, then the Corporation will be free to proceed in the matter for demolition of the unauthorised construction in accordance with law.

The Tribunal shall proceed hearing of the appeal independently on merits without being influenced by any observation made hereinabove.

The writ petition stands disposed of.

Instruction given by the Executive Engineer (Civil), Building Department, Borough-III, Kolkata Municipal Corporation dated 5th September, 2022 be retained with the record.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(AMRITA SINHA, J.)

