

OD-12

ORDER SHEET
WPO No.2661 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

LATIFUR RAHMAN & ORS.
-Versus-
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 23rd September, 2022.

Appearance:
Mr. Sounak Bhattacharjee, Adv.
Mr. Pran Gopal Das, Adv.
Mr. Avijit Mukherjee, Adv.
....for the Petitioners.
Mr. Ranajit Chatterjee, Adv.
Ms. Piyali Sengupta, Adv.
...for KMC.
Mr. Manoj Malhotra, Adv.
Mr. Sagnik Chatterjee, Adv.
...for the State.

The Court:- The petitioners are suffering an order of demolition dated 29th March, 2022 passed by the Executive Engineer (Civil)/Building /Borough-III in respect of 480 sq. meter which has been constructed illegally in the premises No.3/3D, Narkeldanga Main Road, Kolkata-700 011.

The petitioners have already preferred an appeal before the Municipal Building Tribunal and the same is pending consideration.

A notice under Sections 544 and 546 of the Kolkata Municipal Corporation Act, 1980 has been issued on 16th September, 2022 intimating the petitioners that the men and agents of the Kolkata Municipal Corporation shall enter the premises on 26th September, 2022 for the purpose of demolishing the unauthorized construction.

Learned advocate for the petitioners submits that though the appeal was filed in April, 2022 but for want of lower Court records the matter could not be proceeded further and next date has been fixed by the Municipal Building Tribunal on 1st December, 2022.

Learned advocate representing the Kolkata Municipal Corporation submits that the order of demolition was passed in compliance of the direction passed by this Court on 18th January, 2022 in WPO No.117 of 2022.

As it appears that the order of demolition is already under scrutiny before the Municipal Building Tribunal and the date has been fixed on 1st December, 2022, accordingly, for ends of justice the men and agents of the Kolkata Municipal Corporation are restrained from giving any effect or further effect to the notice issued under Sections 544 and 546 of the Kolkata Municipal Corporation Act, 1980 till 16th December, 2022.

In the event, the petitioners are unable to obtain an order of stay of the impugned order of demolition, then it will be open for the Kolkata Municipal Corporation to proceed with the demolition work in accordance with law.

The petitioners will be entitled to apply and move for stay of the impugned order of demolition before the Municipal Building Tribunal and the Municipal Building Tribunal is requested to consider the same.

The writ petition stands disposed of.

Instruction given by the Officer-in-Charge of Narkeldanga Police Station and the Executive Engineer (Civil)/Building Department/Borough-III of the Kolkata Municipal Corporation be retained with the records.

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

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(AMRITA SINHA, J.)