

ORDER SHEET

WPO No.2767 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

ZAINUL ABEDIN
-Versus-
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 28th September, 2022.

Appearance:
Mr. Soumik Ganguli, Adv.
Mr. Sourat Nandy, Adv.
.for the Petitioner.
Mr. Ranajit Chatterjee, Adv.
Mr. Subhrangsu Panda, Adv.
...for KMC.

The Court:- The petitioner is suffering an order of demolition dated 22nd July, 2022 passed by the Executive Engineer (Civil)/Building /Borough-III in respect of 395.38 sq. meter which has been constructed illegally in the premises No.3/5F, Narkeldanga Main Road, Kolkata-700 011.

The petitioner has already preferred an appeal before the Municipal Building Tribunal on 26th September, 2022 and the next date has been fixed by the Municipal Building Tribunal on 10th November, 2022.

A notice under Sections 544 and 546 of the Kolkata Municipal Corporation Act, 1980 has been issued on 15th September, 2022 intimating the petitioners that the men and agents of the Kolkata Municipal Corporation shall enter the premises on 28th September, 2022 for the purpose of demolishing the unauthorized construction.

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 4th January, 2022 in WPA No.17307 of 2021.

As it appears that the order of demolition is already under scrutiny before the Municipal Building Tribunal and the date has been fixed on 10th November, 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 petitioner is 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 petitioner 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.

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

(AMRITA SINHA, J.)