

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

IA NO:GA/1/2022
APOT/207/2022
WITH
WPO/1107/2021
AJIT SAMANTA
VS
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE ARIJIT BANERJEE
The Hon'ble JUSTICE APURBA SINHA RAY
Date : 7TH NOVEMBER, 2022.

Appearance:

Mr. Prithvijoy Das, Advocate
Ms.Kaniz Kulsum,Advocate
...for appellant/petitioner

Mr. Debjit Mukherjee, Advocate
Ms.Susmita Chatterjee,Advocate
.....for KMC

Mr.Dhiraj Trivedi,Advocate
Mr.Bikash Kumar Singh,Advocate
...for respondent Nos.7 & 8.

THE COURT: A judgement and order dated September 15, 2022
whereby W.P.No.1107 of 2022 was disposed of, is under challenge in this
appeal.

It appears that way back in the year 2017 an order of demolition in respect of the property in question, was passed by the Special Officer (Building), Kolkata Municipal Corporation (KMC). However, the order remained unimplemented. The respondents/writ petitioners approached the learned single Judge for implementation of the demolition order. The learned single Judge noted that the order of demolition had not been interfered with by any higher forum and still was in existence. Accordingly, the learned Judge directed the Corporation authorities to carry out the demolition process. We notice that the private respondent in the writ petition, who is the present appellant, did not appear before the learned single Judge.

We have heard learned counsel for the parties. We see no reason to interfere with the order impugned. The appellant chose not to assail the order of demolition passed by the Special Officer (Building), Kolkata Municipal Corporation before the available forum. So long as the order stands, there is no reason why the same should not be implemented.

We, however, make it clear that while demolition of the unauthorized portion of the property in question, the corporation authorities shall take due care to ensure that no part of the authorized structure is adversely affected.

We further make it clear that the Corporation shall carry out the demolition process in terms of the demolition sketch.

The appeal and the connected application are accordingly disposed of. There will, however, be no order as to costs.

Since we have not called for any Affidavits, allegations made in the stay application are deemed not to have been admitted by the respondent.

[ARIJIT BANERJEE, J]

[APURBA SINHA RAY, J.]

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