

Item No. 12

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

5.01.2023
Ct-24

WPA 153 of 2023
Prasanta Saha

v.

The State of West Bengal & Ors.

Md. Nauroz Rahber
Mr. Muhammad Jawwad
... for the petitioner.

Mr. Debjit Mukherjee
Ms. Dipanwita Ganguly
... for KMC.

Mr. Sudipto Panda
Ms. Munmun Tewari
... for the State.

The petitioner is aggrieved by the demolition order passed in respect of the unauthorized construction made at Premises No. 39, Dr. Dhiren Sen Sarani, Ward No. 27, Borough-IV under the jurisdiction of the Kolkata Municipal Corporation.

According to the petitioner, the order of demolition had been passed without providing any opportunity of hearing to him. The petitioner alleges violation of principles of natural justice.

Learned advocate representing the Kolkata Municipal Corporation produces before this Court the notice of hearing which was sent to the petitioner through speed post on August 18, 2022 fixing the date of hearing on August 23, 2022. The petitioner failed to appear in the hearing. Order of demolition was passed

on September 21, 2022 and was communicated to the petitioner. The petitioner failed to act in accordance with the order of demolition. First reminder was served on December 27, 2022.

It has been submitted by the petitioner that the order of demolition dated 21st September, 2022 was not served upon him. The petitioner has annexed the copy of the said first reminder dated December 27, 2022 and submits that the petitioner intends to prefer an appeal before the appellate forum.

Time has been sought for.

Upon perusal of the documents placed before this Court, the Court is not satisfied with the conduct of the petitioner. Nevertheless, for ends of justice, as the order of demolition is an appealable one and the petitioner has expressed his intention to prefer an appeal before the appellate forum, accordingly, the men and agents of the Kolkata Municipal Corporation are directed not to proceed any further with the demolition order passed on September 21, 2022 till February 10, 2023.

In the event, the petitioner is unable to produce any order of stay/setting aside/modification and/or variation of the order of demolition dated September 21, 2022, it will be open for the men and agents of the Corporation to implement the order of demolition in accordance with law.

The writ petition stands disposed of.

Instruction given by the engineers of the Kolkata Municipal Corporation be retained with the records.

Report filed by the Officer-in-Charge, Burtolla Police Station dated January 5, 2023 be also retained with the records.

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

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(Amrita Sinha, J.)