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Ct No 2023
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AGM

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

WPA 3043 of 2023

**Masood Alam & Anr.
Vs
Kolkata Municipal Corporation & Ors.**

Mr. Farooque Ali
Mr. Shahrukh Raja
Mr. Afsar Ali

... For the petitioners.

Mr. Subhrangshu Panda
Ms. Dipanwita Ganguly

... For the KMC.

Mr. Md. Sarwar Jahan
Mr. Maidul Islam Koyal

... for the respondent nos. 5
and 6.

The order of the Special Officer (Building), Kolkata Municipal Corporation passed in Demolition Case No. 19-D/IX/20-21 on 6th August, 2022 is impugned in the present writ petition.

Specific case made out by the petitioners is that they are the occupiers of the subject structure, which is a thika property. The structure in question is an old one and no construction has been made at the instance of the petitioners.

Learned advocate representing the KMC has produced records of the demolition proceeding and has candidly submitted before this Court that no notice or opportunity of hearing was given to the petitioners.

Notice was served upon Md. Masoom and Md Maksood.

Learned advocate representing the private respondents submits that the petitioners are the persons responsible for making the unauthorised construction and Md. Masood and Md Maksood is one and same identical person.

To obviate any doubt from the mind of the parties, the Court thinks it fit to direct the Corporation to conduct a fresh spot inspection upon prior notice to the necessary parties.

The report of spot inspection shall be circulated amongst the parties. A hearing shall be conducted thereafter. If it ultimately transpires that there is any unauthorised construction, then the same shall be dealt with appropriately by the authority in accordance with law.

The aforesaid exercise shall be concluded at the earliest but positively within a period of twelve weeks from the date of communication of this order.

The order passed by the Special Officer (Building), KMC on 6th August, 2022 is accordingly set aside and quashed.

The writ petition stands disposed of.

Instruction given by the engineers, KMC be 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.

(Amrita Sinha, J.)

