

01
15.05.2023
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 3108 of 2020

**Anjali Dhar
-versus
Kolkata Municipal Corporation & Ors.**

**Mr. Sounak Bhattacharya
Mr. Abhirup Halder,
Mr. Anirban Saha.
...For the Petitioner.**

**Mr. Raghunath Chakraborty.
...For the Private Respondent.**

**Mr. Subhrangsu Panda.
...For KMC.**

In the orders dated 28th April, 2023 and 4th May, 2023, the writ petition number has been wrongly mentioned as WPA 3108 of 2022. The same ought to read as **WPA 3108 of 2020**.

The remaining part of the aforesaid orders remains unaltered.

The department is directed to carry out the necessary correction at once.

The petitioner seeks implementation of the order of the Special Officer dated 25th October, 2002 affirmed by the Municipal Building Tribunal by order dated 4th June, 2005 in B.T. Appeal No. 107 of 2002.

It appears that challenging the order passed by the Municipal Building Tribunal, the private respondent preferred a writ petition before this Court being W.P. No. 13153 (W) of 2005.

Initially an order was passed by the Court on 15th July, 2005 directing the petitioner to maintain status quo as on date as regards the construction in question.

Subsequently, the said writ petition stood dismissed for default on 25th June, 2015 and the interim order stood vacated.

Learned advocate appearing for the private respondent who is suffering the order of demolition submits before this Court that steps have been taken for restoration of the writ petition by filing application being CAN 2 of 2023 on 14th March, 2023.

Time has been sought.

Admittedly, as on date, there is no order staying the operation of the order passed by the Municipal Building Tribunal directing demolition of the 1st floor of the subject premises.

In the absence of an order of stay, it will not be proper for this Court to restrain the Kolkata Municipal Corporation to take steps for compliance of the direction passed by the Learned Tribunal.

For ends of justice, the Court directs the Kolkata Municipal Corporation to act in accordance with the order passed by the Special Officer Building affirmed by the Municipal Building Tribunal on or after on 1st July, 2023.

In the event the person responsible for making construction that is the private respondent herein is unable to obtain an order of stay of the order passed by the Municipal Building Tribunal within the time as specified hereinabove, then the Corporation shall implement the order of the Tribunal at the earliest, but positively within 30th September, 2023.

The writ petition accordingly, 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.)