

W.P.A. 4720 of 2023

Biswanath Kotal

Vs.

The State of West Bengal & Ors.

Mr. Supratik Basu
Ms. Bratati Pramanick
....for the Petitioner

Mr. Alok Kr. Ghosh
Mr. Mihir Kundu
....for the KMC

Mr. Santanu Kr. Mitra
Mr. Subhabrata Das
...for the State

In the writ petition a notice dated 22nd February, 2023 issued by the Executive Engineer (C), Building Department, Borough-I, KMC has been assailed whereby concerned authority of Kolkata Municipal Corporation took initiative to demolish alleged unauthorized/dangerous building of the petitioner in terms of the demolition order dated 26th April, 2022.

Learned advocate representing the petitioner submits that the basis of issuing impugned notice dated 22nd February, 2023 under Sections 544 and 546 of Kolkata Municipal Corporation Act, 1980 is the demolition order dated 26th April, 2022 issued by the Special Officer (Building) against the petitioner in connection with premises no. 9/H/3, Rani Branch Road, Kolkata-700002.

It has been contended that on receipt of the order of demolition dated 26th April, 2022 a statutory appeal has

been preferred being Appeal No. 169 of 2022 which is still pending before the appellate authority. Therefore, petitioner has prayed for quashing of this notice dated 22nd February, 2023 in view of pendency of the aforesaid appeal.

Mr. Alok Kr. Ghosh, learned Counsel representing the Kolkata Municipal Corporation submits that though appeal has been preferred questioning the demolition order dated 26th April, 2022 which is at pages 21 & 22 to this writ petition but no effective steps have been taken by the writ petitioner being the appellant therein as a result whereof time is being unnecessarily consumed and the order of demolition dated 26th April, 2022 could not be given effect to.

Having heard the learned advocates representing the parties and on perusal of the impugned notice dated 22nd February, 2023 read with demolition order dated 26th April, 2022 it appears that if at this stage the notice dated 22nd February, 2023 is given effect to the appeal pending before the appellate authority will become infructuous. In the appeal being Appeal No. 169 of 2022 the order of demolition dated 26th April, 2022 has been questioned.

In view of aforesaid scenario, the impugned notice dated 22nd February, 2023 issued by the Executive Engineer (C), Building Department under Sections 544 and 546 of Kolkata Municipal Corporation Act, 1980 stands set aside.

However, this Court directs the appellate authority to expedite hearing of the appeal and stay application and same shall be disposed of preferably within a period of 6 (six) months from the date of communication of this order.

With the aforesaid directions, the writ petition stands disposed of.

Copies of the documents relating to the appeal preferred by the petitioner are taken on record.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)