

04
17.05.2023
d.p.

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

W.P.A 5877 of 2023

**Namita Dutta & Ors.
-versus
The Kolkata Municipal Corporation & Ors.**

**Ms. Sumitra Das,
Ms. Kasturi Jarafdar.
...For the Petitioners.**

**Mr. Achintya Kumar Banerjee,
Mr. Sourav Chaudhuri.
...For KMC.**

The matter relates to premises no. 2, Rash Behari Avenue, Kolkata-700026.

The petitioners allege that the building is a very old one and in a ruinous and dangerous condition. The petitioners intend to demolish the old construction and raise a new construction thereon.

The petitioners are, however, not being able to demolish the building despite the fact that the condition is very numinous and portions are collapsing because the tenants are not agreeable to vacate the premises.

The petitioners have already submitted a plan proposal before the Corporation seeking sanction but the same has not been sanctioned till date.

The petitioners pray for the direction upon the Corporation to sanction the plan proposal.

From the report filed by the engineers of the Kolkata Municipal Corporation signed on 13th May, 2023, it appears that the plan proposal was submitted on 9th February, 2018 as per Rule 142 of the Kolkata Municipal Corporation Building Rules, 2009.

All documents as per Rule 4 of the Kolkata Municipal Corporation Building Rules for example Survey Observation Report from Kolkata Municipal Corporation, NOC from KMDA, registered declaration for non-eviction of tenants, deed of gift for corner splay etc. have not been submitted.

The details of the tenants/occupiers of the building have also not been submitted.

In view of the non-submission of all the relevant documents, the department is not in a position to process the plan proposal for sanction.

The report clearly mentions that the building is a very old one, partly three and partly four storied, occupied by several tenants/occupiers. The building is used as residential and commercial purpose. Portions of the cantilever have collapsed and there are other dangerous portions in the building which may collapse.

Some of the dangerous portions have been demolished by the Kolkata Municipal Corporation by engaging demolition agency.

From the report filed by the Kolkata Municipal Corporation and upon hearing the submissions made

on behalf of the parties, it appears that the petitioners, being unable to vacate the premises, is trying to take assistance of the Corporation to vacate the same so that the building may be demolished for raising new construction.

The Kolkata Municipal Corporation Act and the corresponding Rules provides the mechanism as to how the old building is to be demolished and as to how fresh sanction can be obtained.

It will be open for the petitioners to take necessary steps in accordance with law.

The report dated 13th May, 2023 filed in Court today be kept with the records.

A copy of the same has already been handed over to the learned advocate appearing for the petitioners in Court today.

The writ petition 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.)