

09. 21.12.2023
bd. Ct.15

WPA 6006 of 2016

M/s. Kankani Construction Private Limited & Anr.

-vs-

Kolkata Municipal Corporation & Ors.

Mr. Chayan Gupta

Mr. Viswarup Acharya ... for the petitioners.

Mr. Achintya Kumar Banerjee

Mr. Ranajit Chatterjee

Ms. Tanushree Dasgupta ... for KMC

The writ petition is presented, inter alia, praying for implementation of the order dated 24th January, 2012 passed by the Joint Municipal Commissioner (Rev.)(Authorized by M.C. to function as S.O.B.).

Mr. Gupta, learned advocate representing the petitioners submits that already in terms of the said order dated 24th January, 2012 the asbestos shed structure which has been delineated under Part-II of the order dated 24th January, 2012 has been demolished by the petitioners and in this regard reliance has been placed on a report filed on behalf of KMC which was signed on 14th July, 2018. Since such report dated 14th July, 2018 is on record, on perusal of the same it appears that during inspection it was found that the persons responsible removed the shed as shown in the demolition sketch plan situates at the northern side of the premises which was in existence during earlier inspection but iron frame upon which the asbestos shed was constructed remained. With regard to iron shed as referred to in the inspection

report dated 14th July, 2018 it has been submitted by Mr. Gupta appearing for the petitioners that subsequently said iron shed was removed at the instance of the petitioners. However, it has been fairly submitted on behalf of the petitioners that the asbestos shed under Part-I of the order dated 24th January, 2012 still remains and such submission is corroborated by the inspection report dated 14th July, 2018. It has been submitted on behalf of the petitioners that in spite of making effort the same could not be demolished, therefore appropriate direction is necessary directing the concerned authorities to demolish the asbestos shed structure as delineated in Part-I of the order dated 24th January, 2012.

KMC is represented by Mr. Achintya Kumar Banerjee, learned advocate who appears on virtual mode. However, affidavit-in-opposition has been filed on behalf of KMC through the learned advocate who is appearing with Mr. Banerjee and the same is taken on record.

It has been submitted on behalf of KMC that asbestos shed under Part-I should be demolished provided the cost of demolition needs to be borne by the petitioners. At the time of making such submission on behalf of the petitioners it has been submitted that they are ready to bear the cost of demolition of said asbestos shed.

Mr. Banerjee, learned advocate also submits that the demolition team may face resistance while demolishing the said structure since it has been told that there are some

occupants. Therefore, concerned police authorities are required to be directed to provide adequate police assistance which would facilitate demolition.

Having considered the submissions made on behalf of the petitioners and the KMC the writ petition is disposed of by directing the concerned authorities of KMC to demolish the asbestos shed structure as delineated under Part-I of the order dated 24th January, 2012 within a period of six weeks from the date of communication of this order, if necessary, with the assistance of the concerned police authorities. After the demolition is complete the concerned authorities of KMC is directed to issue completion certificate in favour of the petitioners upon compliance of necessary formalities and submission of necessary charges, if applicable, within a period of four weeks thereafter.

Learned advocate for the petitioners is granted leave to amend the cause-title of this writ petition and add Officer-in-Charge of Kasba Police Station as additional respondent in course of this day.

Learned advocate for the petitioners is further directed to serve copy of this writ petition and the order passed by this Court today upon the Officer-in-Charge of Kasba Police Station within seven days from date.

The concerned Officer-in-Charge of Kasba Police Station is directed to provide adequate police assistance by deputing police personnel, if

necessary, in order to facilitate demolition which is to be carried out by the demolition team of the KMC pursuant to the direction of this Court.

However, it is made clear that cost of demolition is to be borne by the petitioners and shall be duly recovered by Corporation.

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.)