

17
21.12.2023
AGM

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

W.P.A. 10838 of 2022

**Haseeb Alam
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. Tarique Quasimuddin
Ms. Zainab Tahur.
...For the Petitioner.**

**Mr. Debjit Mukherjee,
Ms. Susmita Chatterjee.
...For KMC.**

A fresh spot inspection report signed by three engineers of Borough-IX of the Corporation dated 20.12.2023 is placed on record.

It appears therefrom that the structure was inspected upon notice and it was revealed that a G+6 storied building which is fully occupied stands at the said place. There is sanction of three stories but the rest are unauthorised.

Order of demolition was passed on 22nd April, 2022 for demolishing the additional floors. A notice under Sections 544 and 546 of the KMC Act was issued fixing the date of demolition on 25th March, 2023.

The demolition programme had to be postponed on account of the ICSC examination of a candidate in the said premises.

The spot inspection report mentions that a statutory appeal being BTA No. 75 of 2023 is pending consideration before the Municipal Building Tribunal and the next date of hearing is 3rd January, 2024.

Admittedly, as on date there is no order staying the order of demolition.

Since it has been brought to the notice of the Court that a statutory appeal is pending and the next date of hearing is fixed on 3rd January, 2024, accordingly, the Corporation is directed to stay their hands till 29th February, 2024 or until further order whichever is earlier.

If the person responsible fails to obtain any order of stay of the order of demolition prior to 29th February, 2024, it will be open for the Corporation to proceed with the demolition work.

Deputy Commissioner of Police, Port Division is directed to provide adequate police protection for vacating the unauthorised portions of the subject structure at 2/1A/H/8 (B/2/H/8), Nabab Ali Lane, Ward 78, Borough IX of the Corporation.

The vacating of the unauthorized structure and the demolition should continue hand in hand.

The private respondents are restrained from interfering with the work of demolition which will be conducted strictly in accordance with law.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)