

Item No.159

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

04.08.2023
Ct-24

WPA 10916 of 2022

Arvind Kumar Baid

v.

The State of West Bengal & Ors.

Mr. Ujjwal Datta

...For the petitioner.

Mr. Santanu Kumar Mitra

Mr. Subhabrata Das

Mr. Amartya Pal

Mr. Kartick Kumar Goyal

... For the respondent no. 5.

Ms. Tuli Sinha

... For NKDA.

The petitioner is aggrieved by the order of demolition passed by the New Town Kolkata Development Authority (in short NKDA) on May 24, 2022 followed by reminder dated April 17, 2023.

It appears that the said order of demolition was passed in accordance with the provisions of the New Town Kolkata Development Authority Act, 2007.

According to the petitioner, the construction in question was made in accordance with the plan sanctioned by the authority. The petitioner contends that the authority issued the occupancy certificate and thereafter no further construction was made. The order of demolition was passed without conducting any physical inspection.

Prayer has been made for setting aside the demolition orders.

Learned advocates representing the private respondent and NKDA oppose the submissions made on behalf of the petitioner.

It has been submitted that the constructions in question were made after issuance of the completion certificate. The structures in question are unauthorized.

NKDA has filed a report clearly mentioning that the green area of the society has been covered. Car parking space has been covered for using the same as shop room.

It appears from the submissions made on behalf of both the parties and upon perusal of the materials on record that there are several disputed questions of facts involved in the writ petition which cannot be decided without taking evidence.

According to Section 82(3) of the Act, an appeal against the order of demolition shall lie with the Court having jurisdiction.

As there is a specified appellate forum before which the aggrieved party may seek relief, accordingly, the Court refrains from exercising jurisdiction in this matter.

It will be open for the petitioner to approach the statutory appellate forum in accordance with law, if so advised.

The interim order that is subsisting in the matter will remain in force till August 31, 2023.

In the event, the petitioner fails to obtain any order of stay, modification and/or variation of the orders of demolition by August 31, 2023, then it will be open for the authority to take appropriate steps in respect of the unauthorized construction in accordance with law.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

Sh.

(Amrita Sinha, J.)