

07.02.2023
ML 31

Ct.24
BM(JR)

WPA 16528 of 2021

**Md. Gholam Qadir & Ors.
Vs.
The Municipal Commissioner,
Kolkata Municipal Corporation & Ors.**

Mr. Md. Shakir ...for the petitioners.

Mr. Rudranil De ...for KMC.

An accommodation has been sought for on behalf of the learned advocate representing the petitioners.

It appears that the writ petition was filed on 30th September, 2021 and thereafter repeated adjournments were sought for by the petitioners.

The premises in question is facing an order of demolition passed by the Senior Municipal Magistrate, Kolkata. The demolition work could not be implemented as the premises is fully occupied.

The Executive Engineer, Civil/ Building/ Borough-I, KMC requested the occupiers to vacate the premises by notice dated 7th March, 2021. The petitioners pray for setting aside the said order.

The petitioners allege that no notice of any proceeding was ever served upon them who are the occupiers/tenants of the said premises.

The order was passed by the learned Senior Municipal Magistrate, Kolkata way back in the year 2019 and it is high time that the said order is to be

implemented by the Corporation.

Learned advocate representing KMC submits, upon instructions that, the Building Department, KMC issued a letter on 25th September, 2021 to the Deputy Commissioner of Police, N.N.S.D. with a copy to the Officer in Charge, Cossipore Police Station, Kolkata with request to arrange for vacating the premises so that a date may be fixed for proceeding with the demolition programme for executing the order of the learned Senior Municipal Magistrate, Kolkata.

There is nothing to record to suggest that the police took steps for vacating the premises being No. 96/H/20, Cossipore Road, Kolkata-700002, Ward No. 1, Borough - I.

As the order passed by the learned Senior Executive Magistrate is yet to be set aside, vacated, varied or modified by a Court of competent jurisdiction, the same is liable to be implemented.

The Commissioner of Police and the Deputy Commissioner of Police, North Division, Kolkata are directed to take steps to vacate the premises at the earliest and intimate the same to the Executive Engineer, Civil/ Building/ Borough-I, KMC so that the unauthorized structure may be demolished.

The Commissioner of Police and the Deputy Commissioner of Police, North Division, Kolkata shall take steps to vacate the premises at the earliest but positively within a period of four weeks from the date of

communication of this order and the demolition shall be carried out by the Corporation within a period of four weeks thereafter.

Learned advocate for the KMC is directed to communicate this order to the concerned respondents for compliance of the same.

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.)