

Item No.3

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

13.07.2023
Ct-24

WPA 16386 of 2023
Naushad Alam

v.

State of West Bengal & Ors.

Mr. Supratik Basu
Ms. Samata Chhari
... for the petitioner.

Mr. Tapan Coomer De
Mr. Dipankar Ghosh
... for KMC.

Mr. K.N. Nabi
... for the State.

The petitioner is aggrieved by the act of the Kolkata Municipal Corporation in taking steps for demolition of the unauthorized construction allegedly contrary to the direction passed by this Court on March 28, 2022 in WP 19488 of 2021 (Dhiraj Ali alias Md. Akash v. The State of West Bengal & Ors.).

The petitioner submits that no opportunity was given to him in accordance with the direction passed by the Court in the aforesaid writ petition.

It has been submitted that part demolition took place on June 27, 2023 in terms of the notice issued under Sections 544 and 546 of the Kolkata Municipal Corporation Act, 1980.

Prayer has been made by the petitioner to restrain the Corporation from proceeding any further with the demolition work.

Learned advocate representing the Kolkata Municipal Corporation submits, upon instruction that, the demolition programme is being conducted in compliance of the direction passed by this Court.

It has been submitted that part demolition was done on June 27, 2023 and today is the date fixed for execution of further demolition work. It has also been submitted that the Corporation is facing contempt proceeding before the Hon'ble Court which passed the order.

From the documents annexed to the writ petition and the averments made in the writ petition it appears that the petitioner has claimed that he has been engaged for repair and construction work at the subject premises by Om Biswa Hindu Dharma Mahasava. The name of the petitioner does not appear in the impugned notice. Neither the owner nor the person responsible for making construction as indicated in the impugned notice under Sections 544 and 546 of the KMC Act has approached the Court for relief.

The Corporation is proceeding with the work of demolition in respect of a structure constructed without any sanctioned plan. The demolition work is conducted pursuant to the order passed by this Court. Today is the second day of the demolition.

At this stage the Court is not inclined to exercise jurisdiction in the matter.

The writ petition fails and is hereby dismissed.

Report filed by the Officer-in-Charge, Kasba Police Station is taken on record.

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

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(Amrita Sinha, J.)