

Item No.5

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

13.07.2023
Ct-24

WPA 16456 of 2023
Bina Saha

v.

The Kolkata Municipal Corporation & Ors.

Mr. Arindam Banerjee
Ms. Sinthia Bala
... for the petitioner.

Mr. Barin Banerjee
Ms. Sima Chakraborty
... for KMC.

Mr. Dibyajyoti Raha
... for the respondent no. 5.

The petitioner is aggrieved by the notice issued under Sections 544 and 546 of the Kolkata Municipal Corporation Act, 1980 on June 22, 2023 for executing the order of demolition passed on May 28, 2013.

It appears that the order of the Special Officer was under challenge before the statutory appellate forum being the Municipal Building Tribunal where the petitioner lost.

A writ petition was filed thereafter and the same stood dismissed on June 8, 2018. The appeal carried from the order of dismissal passed by the Learned Single Judge also stood dismissed by the Hon'ble Division Bench on October 3, 2018.

The Corporation at this stage is taking steps for implementing the order of demolition.

The petitioner is aggrieved by the same. He tries to reopen the case all over again with the submission that the Special Officer who passed the order initially in the year 2013 did not have the jurisdiction to entertain or adjudicate the issue. Any order passed without jurisdiction is a nullity.

The learned advocate for the petitioner intends to rely on certain decisions passed by this Court in support of the aforesaid submission.

The Court is not inclined to entertain the submission made on behalf of the petitioner as it appears that the petitioner failed to obtain any order setting aside the demolition order passed by the Special Officer before three superior forums. If the issue is reopened all over again, there will be no end to the litigation. The order of demolition has been scrutinized by three judicial fora and found to be proper. The same has attained finality by now.

It is high time that the order of demolition passed way back in May 2013 be implemented.

In view of the above, no relief can be granted to the petitioner in the instant writ petition.

The writ petition fails and is hereby dismissed.

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.)