

07 24.07.2023
rkd Ct.15

W.P.A. 16086 of 2018

Smt. Chitra Sengupta

-vs-

The Kolkata Municipal Corporation & Ors.

Mr. Dibyajyoti Raha

....for the petitioner.

Mr. Barin Banerjee,
Ms. Sima Chakraborty

....for the KMC.

The writ petition has been instituted, *inter alia*, seeking implementation of the demolition order dated 28th May, 2013 passed in Demolition Case No.15-D/XII/2012-13.

During course of hearing the learned advocate representing the petitioner submits copies of the order passed by a coordinate Bench dated 13th July, 2023 passed in the writ petition being WPA 16456 of 2023 and another order dated 20th July, 2023 passed by the Hon'ble Division Bench on an intra Court appeal being MAT 1325 of 2023.

On perusal of the order dated 13th July, 2023 passed by the coordinate Bench on the writ petition being WPA 16456 of 2023 it appears that the said writ petition was instituted by the respondent no.6 and the same was dismissed by the coordinate Bench in view of the fact that the order of the Special Officer (Building) passed against the said respondent no.6 was not interfered with up to the appeal proceedings before the Hon'ble Division

Bench of this Court. However, respondent no.6 filed an intra Court appeal being MAT 1325 of 2023 on the point of jurisdictional error in passing demolition order by the concerned authority of Kolkata Municipal Corporation. The Hon'ble Division Bench in its order dated 20th July, 2023 allowed the appeal of respondent no.6 and directed the Kolkata Municipal Corporation to initiate fresh action at the earliest and take the same to its logical conclusion in accordance with law, observing principles of natural justice.

The learned advocate representing the petitioner in the present writ petition has made submission to persuade this Court to give necessary direction upon the Kolkata Municipal Corporation to allow the writ petitioner being represented before the concerned authority of Kolkata Municipal Corporation while action would be taken pursuant to the order passed by the Hon'ble Division Bench dated 20th July, 2023.

It has also been submitted that the petitioner in the present writ petition was party to the intra Court appeal being MAT 1325 of 2023 which was disposed of by the Hon'ble Division Bench vide order dated 20th July, 2023.

Kolkata Municipal Corporation is

represented by learned advocates who has opposed the prayer made on behalf of the petitioner in view of the order passed by the Hon'ble Division Bench.

Having seen the order passed by the Hon'ble Division Bench dated 20th July, 2023 it appears that if the contention of the petitioner is accepted thereby today this Court directs the concerned authority of Kolkata Municipal Corporation to permit the present writ petitioner to be represented before the KMC that would in effect modify the order passed by the Hon'ble Division Bench dated 20th July, 2023 which according to this Court is not permissible.

In view of aforesaid discussion the present writ petition stands disposed of without passing any further order in view of the order passed by the Hon'ble Division Bench dated 20th July, 2023.

However, there shall be no order as to costs.

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

(Saugata Bhattacharyya, J.)