

Item No.31

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

11.12.2023
Ct-24
AGM

WPA 18062 of 2023

Sri Tapash Mukhopadhyay & Ors.

v.

The Kolkata Municipal Corporation & Ors.

Mr. Dibakar Bhattacharya.

... for the petitioners.

Mr. Lalit Mohan Mahata.

Mr. Ziaul Haque

... for the State.

Mr. Subhrangsu Panda.

Ms. Ina Bhattacharya.

... For the KMC.

Mr. S. K. Ghosh.

Mr. S. Saha.

... For the private respondent.

The matter relates to premises no. 4/1, M. N. Sen Lane, Ward No. 97, Borough – X under the jurisdiction of the KMC.

The petitioners and the private respondent are joint owners of the subject premises. The petitioners contend that the building is in a very ruinous condition and is required to be demolished. The petitioners pray for a direction upon the KMC to demolish the said structure.

Learned advocate representing the private respondent submits that a civil suit for partition is pending consideration before the learned Court below.

The private respondent submits that he is not standing in the way of repairing the subject structure.

Learned advocate representing the Corporation has produced the instruction forwarded by Sub Assistant Engineer (Civil)/Building and Assistant Engineer (Civil)/Building, Borough-X signed on 11th December, 2023 wherefrom it appears that the premises was inspected and it was found to be in a very ruinous condition for non-maintenance of the existing old two storied building.

The department issued notice under Section 411 (1) of the KMC Act, 1980 upon the owners/occupiers on 24th August, 2022 directing them to demolish the endangered portion/ruinous state of the building and to secure the rest portion of the existing building by thorough adequate repairing work without changing the character and dimension of the building under strict supervision of the Empanelled Structural Engineer of the KMC. The notice mentions that for re-construction work, approval of KMC was required.

As the owners/occupiers did not take any initiative to secure the existing building, the Corporation affixed a caution board declaring the building as dangerous under Section 411 (2) of the KMC Act, 1980 for the safety of the inmates of the building. The department intimated the matter to the Officer-in-Charge, Regent Park Police Station.

It appears from the submissions made on behalf of all the parties that admittedly the building is an old one, presently in a ruinous condition on account of non-maintenance of the same. The Corporation has already issued notice for repairs under Section 411 (1) of the KMC Act.

It will be open for the parties to take necessary steps in terms of the notice issued by the Corporation.

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.)