

August 23, 2023
Sl. No.04
Court No.19
s.biswas

CO 2800 of 2023

M/s. Multibuild Properties Private Limited and another
vs.
The Kolkata Municipal Corporation and others

Mr. Raghunath Chakraborty
Mr. Supratik Syamal
Ms. Sonali Sengupta
Ms. Sabarnee Chatterjee
Ms. Somosreedebi Dutta

... for the petitioners

Mr. Alak Kr. Ghosh
Mr. S. K. Debnath

... for the KMC

This revisional application has been filed with the allegation that a review petition was sought to be filed by the petitioner before the learned Municipal Building Tribunal, Kolkata Municipal Corporation, but the department did not accept such filing, although the Rules of Business of the tribunal, permitted the tribunal to correct the defects and errors in its decisions.

According to Mr. Chakraborty, the review was sought to be filed on various grounds. The order of demolition was upheld by the tribunal. Reliance has been placed on the decision of this court in the matter of **Anima Saha vs. Kolkata Municipal Corporation** reported in 2012 SCC OnLine Cal 641.

Pointing out paragraph no.17 of the said decision, Mr. Chakraborty submits that Rule 20 of the Kolkata Corporation Tribunal (Conduct of Business) Rules, 1965, permitted the Municipal

Building Tribunal to exercise a power akin to the power of review.

Mr. Ghosh, learned advocate appearing on behalf of the Kolkata Municipal Corporation submits that the contention of Mr. Chakraborty that the department was not accepting the review application was not supported by any cogent materials. It could be that the persons responsible for the unauthorised construction, in order to circumvent the order passed by the learned tribunal, has approached this court directly with the review application without filing the same before the learned tribunal. According to Mr. Ghosh, if any leave is granted by this court, the same may be construed as a direction upon the learned tribunal to admit the review application and pass necessary orders.

The apprehension of Mr. Ghosh is not well founded. A direction of this court upon the learned tribunal to decide the review application, would not be an observation on the merits of the review application.

The tribunal will be at liberty to take up the matter and dismiss the same in limine, if it is found to be not maintainable.

Under such circumstances, this revisional application is disposed of with a direction upon the petitioner to file the review application within a week.

The learned Tribunal will dispose of the same expeditiously.

The petitioners are directed to serve a copy of this revisional application containing the review application upon the opposite party no.7 within 48 hours, so that the opposite party no.7 is not taken by surprise. Neither the order of the Special Officer (Building) nor the order of the learned tribunal have been dealt with in this proceeding, on merits.

This court makes it clear that the review application which has been annexed to the revisional application will be the application that shall be filed before the learned Tribunal. No further addition, alteration or amendment to the same, is permitted.

The Kolkata Municipal Corporation shall stay its hands for three weeks or until further orders of the learned Tribunal, whichever is earlier.

The revisional application is thus disposed of.

All the parties are directed to act on the basis of the server copy of the order.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Shampa Sarkar, J.)