

03.01.2023

Sl.No. 23
Ct.No. 24
Amalranjan

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 20374 of 2022

Sk. Anwaruddin
Vs.
State of West Bengal & Ors.

Mr. Ambar Nath Banerjee
Mr. Amrita Panja Moulick
...for the petitioner

Mr. Alok Kr. Ghosh
Mr. Manojit Pal
...for the Corporation

Mr. Himadri Sikher Chakraborty
Mrs. Susnita Saha
...for the State

The petitioner complains that the order dated 6th May, 2019 passed by the Special Officer (Building), Kolkata Municipal Corporation is yet to be implemented.

The Special Officer (Building) passed order under Section 400(1) of the Kolkata Municipal Corporation Act, 1980 read with Kolkata Municipal Corporation (Regularisation of Building) Regulation 2015, in respect of premises no. 47, Prince Rahimuddin Lane, Ward -89, Borough No.-X in demolition Case No. 19-D/Bldg/B-X/18-19 and directed that the unauthorised four storied RCC framed structure

with brick walls consisting an area of 379.57 Sq.mtr. shall be demolished by the person responsible within thirty days of receipt of the order failing which the KMC authority will be at liberty to demolish the same at the cost and risk of the person responsible.

The petitioner submits that the unauthorised construction has not been demolished till date.

Learned advocate representing the Corporation is unaware as to whether the order has been appealed before the appellate forum. No order has been placed before this Court to show that the order passed by the Special Officer (Building) has been stayed, set aside or varied by any Court of competent jurisdiction.

Accordingly, it is incumbent for the respondent authority to act in accordance with the order passed by the Special Officer (Building).

None appears on behalf of the respondent no. 8.

The envelope addressed to the respondent no. 8 has returned unserved with the postal endorsement "door locked".

As it appears that the order of demolition passed by the Special Officer (Building) has not been implemented till date, accordingly, the Executive Engineer (Building Department), Borough-X is directed to take steps for implementation of the order dated 6th May, 2019 passed by the Special Officer (Building) in the aforesaid demolition case provided the same is not set aside/varied/vacated or stayed by any Court of competent jurisdiction.

The order shall be implemented positively within a period of twelve weeks from the date of communication of this order.

The respondent no. 7 being the Officer-in-Charge, Charu Market Police Station is directed to render all necessary assistance and co-operation to the men and agents of the Kolkata Municipal Corporation at the time of execution of the work of demolition, if sought for, including vacating the premises in question.

Report filed by the Officer-in-Charge Charu Market police station signed on 7th September, 2022 be retained with the records.

Writ petition stands disposed of.

Urgent certified photo copy of this order, if applied for, be given to learned advocates for the parties upon compliance of all requisite formalities.

(Amrita Sinha, J.)