

Item No. 9

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

3.01.2023
Ct-24

WPA 22623 of 2022
Ramsurat Singh
v.
State of West Bengal & Ors.

Mr. Supratik Basu
Mr. Bratai Pramanick
... for the petitioner.

Mr. Dwijadas Chakraborty
Ms. Manisha Nath
... for KMC.

The petitioner is aggrieved by the act of the Kolkata Municipal Corporation in taking steps for execution of the order of demolition dated August 24, 2022 passed by the Executive Engineer(C)/Bldg. Department, Borough-I.

The petitioner has averred in the writ petition that an appeal has been preferred before the Municipal Building Tribunal being Appeal No. 172 of 2022 along with an application for stay on September 5, 2022.

Learned advocate representing the Kolkata Municipal Corporation submits, upon instruction, that the disputed structure at 46 M, Lock Gate Road was constructed without taking any permission from the Kolkata Municipal Corporation. Departmental inspection in April 2022 revealed construction of several RCC columns in the ground floor. A stop work order was issued on April 28, 2022 with intimation to the police in May 2022.

Further inspection in July 2022 revealed that the person responsible constructed five storied RCC framed structure along with brick wall at the said site. Notice was issued upon the person responsible to appear for a hearing on August 24, 2022. The person responsible appeared before the Executive Engineer and after hearing him, the Executive Engineer passed order directing the person responsible to demolish the five storied structure which was constructed without taking any permission from the Kolkata Municipal Corporation.

As the order of demolition was not complied, the notice under Sections 544 and 546 of the Kolkata Municipal Corporation Act, 1980 was issued and request was sent to the Chitpur Police Station to provide police assistance for executing the order of demolition on and from January 5, 2023.

Learned advocate of the petitioner produces copy of the order dated November 28, 2022 passed in the appeal wherefrom it appears that the appeal stood dismissed on November 28, 2022. The appellant filed an application for restoration of the appeal on December 21, 2022 and the same has been fixed on January 12, 2023.

Learned advocate for the petitioner seeks some time to proceed with the application for restoration.

Though, the Court is not satisfied with the conduct of the petitioner in proceeding with the appeal before the learned Tribunal, but for ends of justice the Court is inclined to give only once last chance to the petitioner to press his appeal.

The men and agents of the Kolkata Municipal Corporation are restrained from taking any steps in

furtherance to the notice under Sections 544 and 546 of the Kolkata Municipal Corporation Act, 1980 till January 31, 2023. In the event, the petitioner fails to obtain any order of stay of the order of demolition prior to January 31, 2023, it will be open for the Kolkata Municipal Corporation to proceed with the demolition work in accordance with law.

The writ petition stands disposed of.

Instruction given by the Assistant Engineer (C), Bldg. Borough-1, Kolkata Municipal Corporation signed on January 2, 2023 and copy of the orders dated November 28, 2022 and December 21, 2022 passed by the Municipal Building Tribunal, Kolkata Municipal Corporation in Appeal No. 172 of 2022 be retained with the records.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

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(Amrita Sinha, J.)