

ML15
09.10.2023
Ct. No. 15
adeb

W.P.A. 22703 of 2018

**Shipra Ghosh & Anr.
Vs.
The Kolkata Municipal Corporation & Ors.**

Mr. Anirban Mitra

....for the petitioners

Mr. Alok Kr. Ghosh
Mr. Swapan Kr. Debnath
Mr. Gopal Ch. Das

...for the KMC

Mr. Rohit Das
Mr. Indradip Das
Ms. Divya Jyoti Tekriwal

...for the respondent no. 8

The writ petition is taken up for consideration pursuant to the order dated 25th September, 2023 when Mr. Alok Kr. Ghosh, learned advocate representing the Kolkata Municipal Corporation has submitted a further report signed on 6th October, 2023 which is taken on record.

Today, at the time of hearing the owner of the premises 8A, Ram Chandra Chatterjee Lane under Ward No. 25, Borough-IV, Kolkata being respondent no. 8 is also represented. However, in terms of the previous direction, one of the tenants of the said premises viz. Dulal Chandra Ghosh has been added as additional respondent no. 9 and notice was attempted to be served upon the said respondent no. 9. But the envelope has

returned with endorsement 'addressee cannot be located'. Another notice was also served upon the said respondent no. 9 to his house at Dankuni, but from the tracking report annexed to the affidavit-of-service it appears that the notice could not be served and there is a report to the extent that the addressee left without instructions. Returned envelope and the affidavit-of-service filed on behalf of the petitioners are taken on record.

It appears from a previous report signed on 14th December, 2018 which is annexed to the affidavit affirmed on behalf of Kolkata Municipal Corporation on 14th December, 2018 that a notice under Section 411 (1) of the Kolkata Municipal Corporation Act, 1980 (hereinafter referred to as "the said Act of 1980") was issued in connection with the aforesaid premises since on inspection it was found that the condition of the premises was ruinous and it may cause major accident at any point of time. Two petitioners are the tenants of the aforesaid premises. Apart from these two petitioners, respondent no. 9 is another tenant of the said premises. It has been submitted by the learned advocate representing the petitioners that due to ruinous condition of the aforesaid premises the tenanted portions have become uninhabitable. Therefore, it has been submitted that since a notice has been issued under Section 411(1) of the said Act the said premises is

required to be repaired for making the tenanted portions habitable and at the same time it has also been submitted that the petitioners are ready to take necessary steps for repairing the aforesaid premises, if same is permitted by this Court as well as Kolkata Municipal Corporation.

Respondent no. 8 is the owner of the premises in question who is represented by learned advocate.

It has been submitted on behalf of the said respondent no. 8 that previously effort was made to repair the building for preventing the same from further structural deterioration, but such effort went in vein and the same could not be materialized since there was no cooperation from the side of the tenants. However, it has been submitted on behalf of respondent no. 8 that in the event Court permits the respondent no. 8 to repair/reconstruct the building based on the report furnish on behalf of Kolkata Municipal Corporation, the same can be made in a time bound manner.

On perusal of the report signed on 6th October, 2023 filed on behalf of the Kolkata Municipal Corporation it appears that during inspection it was found that dilapidated first floor and the damaged tiled roof of the ground floor cannot be retained and it needs to be demolished whereas the ground floor of the premises can be restored, if thorough repairing work

including reconstruction of roof is done with due consent of the owner.

Based on such report signed on 6th October, 2023 and the submission made on behalf of the respondent no. 8 it appears that the respondent no. 8 is ready to repair/reconstruct the aforesaid premises in question; this Court directs the respondent no. 8 to engage structural engineer from the panel of Kolkata Municipal Corporation and prepare a building plan within 4 (four) weeks from date and submit the same before the Deputy Chief Engineer (Building)/North of Kolkata Municipal Corporation within 1 (one) week thereafter. On receipt of such building plan, Deputy Chief Engineer (Building)/North is directed to issue necessary plan thereby permitting the respondent no. 8 to repair/reconstruct the aforesaid premises in question within 2 (two) weeks thereafter. The respondent no. 8 on receipt of plan, shall repair/reconstruct the aforesaid premises within 6 (six) months thereafter. On completion of repairing/reconstruction of the aforesaid building as per the plan which is to be sanctioned by the Deputy Chief Engineer (Building)/North, the proportionate tenanted portions are to be handed over to the tenants of the aforesaid premises and on handing over of such tenanted portions tenants shall commence payment of monthly rent which is to be paid within 6th day of each and every month.

However, it is made clear that the tenants of the aforesaid premises shall cooperate with the respondent no. 8 being the landlady of the aforesaid premises in order to complete repairing/reconstruction of the aforesaid building following the procedure as detailed above.

This order is passed by this Court taking into consideration the notice which has been issued under Section 411 of the said Act of 1980 as it emanates from the report dated 14th December, 2018 of the Kolkata Municipal Corporation and also in the backdrop of facts that the aforesaid premises situates at the congested locality and the condition of the premises is ruinous as it appears from the three reports dated 14th December, 2018, 22nd September, 2023 and 6th October, 2023 and if there is any delay in reconstructing the building, in that event, accident may occur at any point of time which may lead to casualties.

The learned advocate for the petitioners is granted liberty to amend the cause title of the writ petition and add Deputy Chief Engineer (Building)/North as additional respondent in course of this day.

With the aforesaid directions, the writ petition stands disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)