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11.12.2023
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 27556 of 2023

**Smt. Sarbani Chakraborty & Anr.
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. Kallol Basu,
Mr. Subhrangsu Panda,
Mr. Chandrachud Chatterjee,
Ms. Mithu Singha Mahapatra.
.... For the Petitioners.**

**Mr. Gopal Chandra Das,
Mr. Sundar Gopal Bhattacharyya.
...For KMC.**

The Corporation has issued a notice under Sections 544 and 546 of the Kolkata Municipal Corporation Act, 1980 for implementing the order of demolition passed by the Special Officer (Building) on 21st February, 2023.

The petitioners have challenged the order of demolition passed by the Special Officer (Building) before the statutory appellate forum.

The same is pending consideration.

The information slip issued by the Building Tribunal produced before this Court in connection with the said appeal mentions that the B.T. Appeal No. 168 of 2023 is pending. Stay petition herein and records

have been called for. The next date fixed is 2nd January, 2024.

The report of the engineers of the Corporation signed on 8th December, 2023 mentions about the issuance of the notice under Sections 544 and 546 of the act and the date of demolition is fixed on 12th December, 2023.

This Court is of the opinion that as the legality of the order of demolition is pending adjudication before the statutory appellate forum, accordingly, the Corporation ought not to proceed with the demolition at this stage. If the order of demolition is executed prior to the disposal of the appeal, then the very purpose of filing the appeal will become infructuous.

In view of the above, the Corporation is directed not to give any effect and/or further effect to the impugned notice issued under Sections 544 and 546 of the Act dated 17th November, 2023 till 31st March, 2024 or until further order whichever is earlier.

It will be open for the petitioners to pray for stay of the impugned order of demolition before the appellate forum.

The Tribunal is requested to decide the application for stay filed by the petitioners within the time limit specified hereinabove.

Photocopy of the information slip obtained from the Municipal Building Tribunal on 8th December, 2023 be retained with the records.

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.)