

09
19.12.2023
d.p.

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

W.P.A 28413 of 2023

**Tarannum Parveen
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. Dinendra Nath Chatterjee,
Mr. Partha Sengupta,
Mr. Biswaroop Sengupta.
...For the Petitioner.**

**Ms. Sima Chakraborty.
...For KMC.**

Affidavit-of-service filed in Court today is taken on record.

The petitioner is aggrieved by the notice issued under Sections 544 and 546 of the Kolkata Municipal Corporation Act, 1980 issued by the Executive Engineer (Civil)/Building Department, Borough-IX dated 9th December, 2023 intimating that the men and agents of the Corporation will visit the premises no. 2/4D, Bhukailash Road, Ward No. 77, Borough-IX with assistants and workmen on 20th December, 2023 for demolishing the 4th and 5th floors of the subject structure as per the order dated 20th April, 2022 passed by the Special Officer (Building) under Section 400(1) of the Kolkata Municipal Corporation Act, 1980.

It has been submitted that the order of demolition is already under challenge before the statutory appellate forum and the same is pending

consideration. During pendency of the appeal the Corporation ought not to implement the order of demolition.

It has been submitted that the appeal has been fixed for consideration by the Tribunal in the month of March 2024.

Prayer has been made for setting aside the impugned notice.

Heard the submissions made on behalf of the parties and perused the materials on record.

Admittedly, the impugned order of demolition is under challenge before the Building Tribunal. The Tribunal will decide the validity of the said order. If the structure in question is demolished prior to the appeal being decided, then the cause of action for filing the appeal will be extinguished and the appeal will be rendered infructuous. The Corporation ought to wait for the final outcome of the appeal prior to demolishing the structure in question.

In view of the above, the impugned order under Sections 544 and 546 of the Act shall remain stayed till 30th June, 2024 or until further order whichever is earlier.

The petitioner is granted leave to approach the statutory appellate forum seeking stay of the impugned order of demolition.

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.)