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ORDER SHEET
WPO No. 20 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

PHOOL HUSSAIN
VS.
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 9th January, 2023.

Mr. P.S. Deb Barman, Mr Amit Gupta,
Advocates for the Petitioner.

Mr. Barin Banerjee, Mr. Swapan Kumar Debnath,
Advocates for KMC.

The Court:- The petitioner is suffering an order of demolition under Section 400(1) of the Kolkata Municipal Corporation Act, 1980 dated 21st November, 2022. The petitioner submits that an appeal has been preferred from the said order of demolition and the next date fixed by the appellate forum is 30th January, 2023.

The Executive Engineer (Civil)/Building Department, Borough-III, Kolkata Municipal Corporation issued notice under Section 544 & 546 of the Kolkata Municipal Corporation Act, 1980 dated 17th December, 2022 fixing the date of demolition on 29th December, 2022.

The petitioner submits that minimum time may be granted to the petitioner to know the fate of the appeal preferred by him before the Municipal Building Tribunal.

Learned advocate representing the Kolkata Municipal Corporation submits, upon instruction that, all steps in accordance with law have been taken prior to passing the order of demolition.

The person responsible made construction without obtaining any permission from the Kolkata Municipal Corporation. The demolition programme was fixed on 29th December, 2022 but the same had to be postponed on account of death of one of the Hon'ble Ministers of the State.

It appears from the submissions made on behalf of both the parties that the Municipal Building Tribunal is presently in seisin over the appeal being B. T. Appeal No.220 of 2022. Next date of consideration of the appeal is 30th January, 2023.

The Executive Engineer (Civil)/Building Department, Borough-III, Kolkata Municipal Corporation is directed not to give any effect or further effect to the notice dated 17th December, 2022 issued under Sections 544 & 546 of the Kolkata Municipal Corporation Act, 1980 till 20th February, 2023.

In the event, the petitioner is unable to obtain any order staying /setting aside or modifying the order of demolition dated 21st November, 2022 by the said date, it will be open for the Executive Engineer (Civil)/Building Department, Borough-III, Kolkata Municipal Corporation to proceed with the demolition programme in accordance with law.

The writ petition stands disposed of.

Instruction given by the Executive Engineer (Civil)/Building Department, Borough-III, Kolkata Municipal Corporation dated 7th January, 2022 be retained with the record.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)

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