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ORDER SHEET

WPO No. 423 of 2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

M/S. MULTIBUILD PROPERTIES PVT. LTD.
VS
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 21st March, 2023.

Appearance:
Mr. Raghunath Chakraborty, Adv.
Mr. Supratik Shyamal, Adv.
Ms. Sonali Sengupta, Adv.
...For the Petitioner.

Mr. Gopal Chandra Das, Adv.
Mr. Dwijadas Chakraborty, Adv.
...For the KMC.

The Court:- Premises No.140, Aurobinda Sarani, Ward No.11, Borough-II, Kolkata-700006 is suffering an order of demolition dated 30.05.2022 duly approved by the Mayor-in-Council.

It appears that the order of demolition was communicated to the owner of the property vide communication dated 19.01.2023.

The petitioner entered into a development agreement with the owner of the property and the petitioner takes the responsibility of the alleged unauthorized construction made at the subject premises.

The petitioner intends to prefer an appeal against the order of demolition but is unable to file the same as the certified copy of the order of demolition has not yet been supplied by the Executive Engineer (Civil)/Building Department of the concerned Borough despite application being made on 09.02.2023.

According to the provision of law, an order under Section 400(1) of the Kolkata Municipal Corporation Act, 1980 may be challenged in appeal under Section 400(3) of the Act before the appellate forum within 30 days from the date of the order.

In the instant case, the order of demolition dated 30.05.2022 was communicated in January, 2023. An application for obtaining certified copy was filed within 30 days from the date of communication of the order. The same is allegedly yet to be supplied by the Corporation.

Learned advocate representing the Kolkata Municipal Corporation is yet to receive instruction with regard to supply of certified copy of the impugned order of demolition.

For ends of justice, this Court thinks it fit to grant liberty to the petitioner to file appeal before the Municipal Building Tribunal by 23.03.2023, as it has been submitted that the appeal has already been made ready but cannot be filed for want of the certified copy. If the appeal is filed by 23.03.2023, the Filing Section of the Municipal Building Tribunal, Kolkata Municipal Corporation shall accept the same without insisting upon the certified copy of the order of demolition dated 30.05.2022.

It will be open for the petitioner to pray for stay of the said order before the Municipal Building Tribunal. The Municipal Building Tribunal shall proceed to decide the matter on merits on receipt of the memorandum of appeal filed by the petitioner.

The Executive Engineer (Civil)/ Building Department, Borough-II of the Kolkata Municipal Corporation is directed to issue certified copy of the

order of the demolition dated 30.05.2022 within one week from the date of communication of this order. The petitioner shall file the certified copy before the Building Tribunal as soon as the same is made available by the Corporation.

The aforesaid Executive Engineer is directed to transmit the records of the case before the Kolkata Municipal Corporation so that the matter can be decided without any further delay.

The writ petition stands disposed of.

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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