

APOT /62/2023
WPO/3049/2022
IA No.GA/1/2023

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Original Side

MD. SALIM KHAN AND ANOTHER.
-Versus-
KOLKATA MUNICIPAL
CORPORATION AND ORS.

Appearance:
Mr. Arif Ali, Advocate.
Mr. Sarban Bhattacharjee, Advocate
...for the Appellants
Mr. Biswajit Mukherjee, Advocate
Mr. A. Farmania, Advocate
for Kolkata Municipal Corporation.
Mr. Debjit Mukherjee, Advocate,
Ms. Susmita Chatterjee, Advocate
For State Respondent.
Mr. Farhaduddin, Advocate
Ms. Era Ghosh, Advocate
For Respondent no. 7 .

BEFORE:
The Hon'ble JUSTICE ARIJIT BANERJEE
The Hon'ble JUSTICE APURBA SINHA RAY

Date: March 21, 2023.

THE COURT: This appeal is directed against the
judgment and order dated December 13, 2022, whereby the

writ petition of the appellants being WPO/3049/2022 was disposed of.

The appellants approached the learned single Judge for cancellation of an order dated October 28/29, 2021 passed by the Executive Engineer (Building), Borough –VI, Kolkata Municipal Corporation, who was respondent no. 5 in the writ petition.

The first paragraph of the order under appeal reads as follows:

“The writ petitioner has filed the present writ petition praying for implementation of the decision of the Executive Engineer (Civil)/Building/Borough VI, Kolkata Municipal Corporation dated 28th October, 2021.”

It appears that the learned Judge was not properly assisted. The writ petition was not for implementation of the order dated March 28/29, 2021 passed by the Executive Engineer. The writ petitioner in fact challenged the said order and prayed for quashing thereof.

Only on the aforesaid ground, we set aside the order and remand the matter for fresh consideration by the learned single Judge having determination to hear the writ petition.

We have not gone into the merits of the matter at all. It will be for the learned single Judge to take appropriate decision in the matter upon hearing the parties.

Since we have not called for any affidavit, the allegations made in the petition are deemed not to have been admitted by the respondents.

The appeal and the connected application accordingly stand disposed of.

(ARIJIT BANERJEE, J.)

(APURBA SINHA RAY, J.)

dg/