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ORDER SHEET

WPO 718 of 2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

PREMENDRA BOSE
VS.
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date: 1st May, 2023.

Mr. Raghunath Chakraborty, Ms. Tanusree Das, Advocates for the
petitioner.

Mr. N. C. Bihani, Mr. Gopal Chandra Das, Advocates for K. M.C.

Mr. Susanta Kr. Mukherjee, Ms. Sonali Bhar, Mr. Harekrishna
Halder, Ms. Smruti Rekha Das, Advocates for respondent no.8.

The Court : The premises no.2/37B, Vidyasagar Colony, Kolkata – 700 047, Borough-X is facing an order of demolition. The parties admit that partial demolition has been carried out on 21st April, 2022 but the entire building could not be demolished as the same was occupied.

Learned Advocate for the petitioner submits that at present the building is in an abandoned state.

Learned Advocate representing the private respondent submits that the petitioner does not have the locus standi to file the present writ petition.

It has been submitted that part demolition has already been executed. It has, however, been submitted that the private respondent is not standing in the way of demolishing the rest.

Learned Advocate representing the Kolkata Municipal Corporation produces the report by the Sub Assistant Engineer (Civil) and the Assistant Engineer (Civil)/Building, Borough-X signed on 20th April, 2023 that part demolition was executed on 21st April, 2022.

It appears from the submissions made on behalf of the parties and upon perusal of the documents placed before this Court that the order of demolition is required to be executed.

Though, issue has been raised with regard to the maintainability of the writ petition at the instance of the petitioner, but since the Court is dealing with the unauthorised construction which has been partially demolished, accordingly, the objection raised by the private respondent with regard to the locus standi of the petitioner cannot be accepted. The allegation of unauthorised construction can be raised by a stranger as laid down by the Hon'ble Supreme Court.

The rest demolition work could not be executed because the construction was occupied. Presently it has been submitted that the building is in an abandoned condition and the same is a breeding ground of mosquitoes and other insects.

In view of the above, the Executive Engineer, Borough-X is directed to take immediate steps for demolition of the remaining construction at the subject premises in accordance with law and to recover the cost of demolition from the person responsible.

Steps shall be taken to complete the entire demolition at the earliest, but positively within a period of sixteen weeks from the date of

communication of this order.

The Officer-in-Charge, Netaji Nagar Police Station is directed to render all necessary help and assistance to the men and agents of the Kolkata Municipal Corporation at the time of execution of the order of demolition, if sought for.

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.)