

OD-7

ORDER SHEET

WPO No.734 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

M/S. AVYAAN INITIATIVES & ANR.
-Versus-
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date:30th March, 2023.

Appearance:
Mr. Chayan Gupta Adv.
Ms. Sabnam De, Adv.
...for Petitioners.

Mr. Gopal Chandra Das, Adv.
Mr. Dwijadas Chakraborty, Adv.
...for KMC.

The Court:- The order of the Special Officer [Building] signed on 02.03.2023 served upon the petitioners on 04.03.2023 directing demolition of two additional floors within fifteen days from the date of communication of the order and other directions passed under section 400[1] of the Kolkata Municipal Corporation Act, 1980 is impugned in the present writ petition.

The petitioners intend to prefer an appeal against the said order. Petitioners submit that the order is ex facie bad. No opportunity of hearing was given to the petitioners to produce documents in support of the construction made.

The men and agents of the Kolkata Municipal Corporation have already taken steps for demolition of the alleged unauthorised structure without issuing any further notice upon the petitioners.

Learned advocate representing the Kolkata Municipal Corporation submits that fifteen days time was granted to the petitioners for demolishing the unauthorised construction. As the petitioners failed to demolish the same,

accordingly, the Corporation took steps for demolition of the unauthorised structure in accordance with the direction passed by the Special Officer [Building].

Learned advocate representing the Kolkata Municipal Corporation submits that the petitioners have approached this Court after a long delay and the Court ought not to interfere with the order of demolition at this point of time. It will be open for the petitioners to raise all points including the point of maintainability of the order passed by the Special Officer [Building] before the appellate forum.

It appears from the submissions made on behalf of the parties that the order under Section 400[1] of the Act is under challenge. The same is an appealable one. According to the statute, thirty days is the time limit within which an appeal may be preferred. Learned advocate for the petitioners submit that the certified copy of the impugned order has already been obtained.

In view of the above, the petitioners are granted liberty to avail the provision of Section 400[3] of the Act before the appellate forum. In the event the petitioners are unable to obtain any order setting aside/staying/modifying the impugned order under Section 400[1] within 28.04.2023, then it will be open for the men and agents of the Corporation to take necessary steps in the matter in accordance with law.

Writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties or their advocates on record expeditiously on compliance of usual legal formalities.

(AMRITA SINHA, J.)