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ORDER SHEET
WPO No.1216 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

DIPAK KUMAR NAYEK
VERSUS
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date:16th June, 2023.

Appearance:
Mr. P. S. Deb Barman, Adv.
Mr. Amit Gupta, Adv.
....for the Petitioner.

Mr. Swapan Kumar Debnath, Adv.
Ms. Sabnam De, Adv.
...for KMC.

The Court:- Grievance of the petitioner is that though notice under Sections 544 & 546 of the Kolkata Municipal Corporation Act, 1980 was issued in connection with the premises no.128A, Moulana Abul Kalam Azad Sarani, Ward No.30 under Borough-III of the Kolkata Municipal Corporation the men and agents of the Kolkata Municipal Corporation went to the spot but instead of conducting demolition in the premises no.128A effected demolition in premises no.128P.

It has further been submitted that the notice of demolition in connection with premises no. 128A was issued in compliance of the direction passed in the case no.98 of 2019 by the Senior Municipal Magistrate, Calcutta in the matter of State Vs. Dipak Kumar Ghosh alias Dipak Mitra & Ors.

It is the submission of the petitioner that the order passed in case no.98 of 2019 has been stayed by the learned Chief Judge, City Sessions Court, Calcutta on 13.06.2023 in Criminal Revision No.138 of 2023, CNR -WBCS01-000560 of 2023.

Apart from the submissions made on behalf of the petitioner and a representation to that effect before the Executive Engineer (Civil)/Building Department, Borough-III, Kolkata Municipal Corporation on 12.05.2023 there is nothing on record to suggest that the men and agents of the Kolkata Municipal Corporation took steps for demolition of the premises no.128P as alleged or at all.

Learned advocate representing the Kolkata Municipal Corporation has obtained instruction from the Executive Engineer (Civil)/Building Department, Borough-III, Kolkata Municipal Corporation wherefrom it appears that the demolition proceeding was initiated in respect of the premises no.128A. Partial demolition already took place on 19.04.2023 and the next date of demolition was fixed on 15.06.2023.

As the learned advocate representing the petitioner has categorically submitted before this Court that he does not have any submission with regard to demolition carried out in respect of premises no.128A and is concerned only with the premises no.128P, accordingly, the men and agents of the Kolkata Municipal Corporation may proceed to conduct demolition of the unauthorised structure in premises no. 128A but the Corporation is restrained from carrying out any demolition in respect of the premises no.128P without serving any notice or without affording any opportunity of hearing to the persons responsible.

Writ petition stands disposed of.

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

(AMRITA SINHA, J.)