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ORDER SHEET
WPO No.1297 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

TAPAN KUMAR DAS & ORS.
-Versus-
THE KOLKATA MUNICIPAL CORPORATION & ORS.

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

Mr. Saptangsu Basu, Sr. Adv.
Mr. Supratick Shyamal, Adv.
...for the Petitioner.

Mr. Nilanjan Chatterjee, Adv.
Ms. Manisha Nath, Adv.
...for KMC.

Mr. R. N. Chakraborty, Adv.
Mr. A. De, Adv.
..for Respondent no.6.

The Court:- The petitioners are aggrieved by the notice issued under Sections 544 & 546 of the Kolkata Municipal Corporation Act, 1980 by the Executive Engineer (Civil)/ Building Department, Borough-XIII on 07.06.2023 intimating that the men and agents of the Kolkata Municipal Corporation will enter the premises no. 54, Bagha Jatin Place, Ward No. 101, Borough-XIII, Kolkata-7000 086 for demolition of the unauthorized structure being the additional floors over the sanctioned two storied building in terms of the order passed by the Special Officer (Building) on 13.03.2023 under section 400(1) of the Kolkata Municipal Corporation Act, 1980.

Learned senior advocate representing the petitioners submits, upon instruction that, the petitioners have not been aware of any order of the Special Officer (Building) passed on 13.03.2023.

It has been contended that from the impugned notice the petitioners, for the first time, came to learn that an order was passed under Section 400(1) of the Act for demolition of the unauthorized construction. Prior to the impugned

notice, the petitioners did not have any opportunity for preferring an appeal against the order of demolition passed by the Special Officer (Building).

Learned advocate representing the private respondents submits, upon instruction that, a hearing was conducted by the Special Officer (Building) and the last date of hearing was 01.03.2023.

Learned advocate representing the Kolkata Municipal Corporation submits, upon instruction that, a hearing before the Special Officer (Building) concluded on 01.03.2023 and an order of demolition was passed on 13.03.2023. The parties are required to apply for obtaining the certified copy of the order.

According to the provision of the Act, any order passed under Section 400(1) is appealable under Section 400(3) of the Act. The aggrieved party is yet to prefer any appeal before the appropriate authority. The men and agents of the Kolkata Municipal Corporation have taken steps for implementation of the order of demolition after the statutory period for filing the appeal is over.

As on date there is no order staying/modifying or setting aside the order of demolition, accordingly, it is open for the Corporation to take steps for implementation of the order in accordance with law.

There is hardly any scope for interference with the impugned notice at this stage.

Writ petition fails and is hereby dismissed.

Affidavit of service filed in Court today is taken on record.

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

(AMRITA SINHA, J.)

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