

ODSL

ORDER SHEET

WPO/1517/2023

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

UMESH JAJODIA
VS
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE KAUSIK CHANDA

Date : 18th August, 2023.

Appearance:

Mr. Arindam Banerjee, Adv.
Ms. Sinthia Bala, Adv.
...for the petitioner

Mr. Gurudas Mitra, Adv.
Ms. Manisha Nath, Adv.
...for KMC

The Court: It is the case of the petitioner that in respect of a building situated at premises no.27, Tarachand Dutta Street, Kolkata-700073, a demolition order was passed by the Kolkata Municipal Corporation on 30th August, 2022. Against the order, the petitioner preferred an appeal before the Municipal Building Tribunal which was registered as B.T. Appeal No.176/2022. During pendency of the appeal, the Corporation sought to implement the order of demolition dated 30th August, 2022.

Mr. Arindam Banerjee, learned Advocate appearing for the petitioner submits that such attempt on the part of the Municipality shall render the appeal infructuous.

Mr. Gurudas Mitra, learned Advocate representing the Kolkata Municipal Corporation, on the other hand, submits that the petitioner has kept the said appeal deliberately pending. It has been further submitted by Mr. Mitra that the petitioner has not filed any application for stay in terms of Section 400(3) of the Kolkata Municipal Corporation Act, 1980 in connection with that appeal. It has been further submitted by Mr. Mitra that the nature of unauthorised construction is of high magnitude. Such submission has been disputed by Mr. Banerjee.

In the above facts, I am of the view that the petitioner should be permitted to file a stay application in terms of Section 400(3) of Kolkata Municipal Corporation Act, 1980 within a period of two weeks from date in connection with B.T. Appeal No. 176 of 2022.

The Corporation shall be restrained from implementing the order of demolition for a period of four weeks from the date of this order.

If the petitioner files the application for stay, the continuation of the stay order passed today shall be decided by the Tribunal in accordance with law without being influenced by this order. If no such application is filed within the time period stipulated in this order, the stay order passed today shall stand vacated immediately after two weeks from the date of this order.

The Tribunal shall make an endeavour to dispose of the appeal as expeditiously as possible, preferably within six months from date.

With the aforesaid orders, WPO/1517/2023 is disposed of.

(KAUSIK CHANDA, J.)