

ORDER SHEET
WPO No.1608 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

BIMAL PAUL
-Versus-
THE KOLKATA MUNICIPAL CORPORATION& ORS.

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

Appearance:

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

Mr. Biswajit Mukherjee, Adv.
Mr. Gopal Chandra Das, Adv.
...for KMC.

The Court:-The petitioner is aggrieved by the demand notice dated 4th September, 2023 raised by the Building Department of the Kolkata Municipal Corporation being 50% security deposit amount upon consideration of the case under Sections 400(1) and 416 of the Kolkata Municipal Corporation Act, 1980.

The petitioner relies upon the Office Circular No.5 of 2022-2023 dated 22.06.2022 issued by the Director General (Building) of the Kolkata Municipal Corporation wherein fee for retention of the unauthorized structure has been specified.

Learned advocate appearing on behalf of the petitioner submits that the demand raised is contrary to the manner in which fee for retention is required to be calculated. The petitioner also relies upon the infringement statement issued by the Assistant Engineer (Civil), Building Department, Borough-I of the Kolkata Municipal Corporation dated 4th September, 2023 in support of the submission that the demand is not in accordance with the Rules/Circular of the Corporation.

It appears from the documents annexed to the writ petition and upon hearing the submissions made on behalf of both the parties that the petitioner is yet to highlight this grievance before the Corporation. Before filing any representation/objection against the impugned demand notice, the petitioner has directly rushed to the Court for relief.

The Court is not the expert body to decide as to how the calculation for assessing retention charge is to be made.

It will be open for the petitioner to raise appropriate objection/representation before the Assistant Engineer (Building), Borough-I highlighting his grievance.

The aforesaid respondent is directed to consider the representation to be filed by the petitioner in accordance with the relevant Rules/Circular(s) of the Corporation after giving the petitioner reasonable opportunity of hearing and to pass a reasoned order and communicate the same to the petitioner.

Consideration shall be made at the earliest, but positively within a period of four weeks from the date of filing the representation.

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.)

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