

OD-6

ORDER SHEET
WPO/1743/2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SUBHASH AGARWAL AND ANR.
VS
KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 28th November, 2023.

Appearance:
Mr. Arif Ali, Adv.
Mr. Sarbon Bhattacharjee, Adv.
...for Petitioners
Mr. Biswajit Mukherjee, Adv.
Mr. Swapan Kr. Debnath, Adv.
Mr. Arijit Dey, Adv.
...for KMC.
Mr. Meghajit Mukherjee, Adv.
Ms. Rishika Goyel, Adv.
...for private respondents

The Court:- A notice under Section 411(1) of the K.M.C. Act, 1980 was issued upon the owners and occupiers of premises no. 108A and 108B, Hazra Road, ward No. 84, Borough-VIII of the Corporation.

The petitioners claim to be tenants in the said premises. The petitioners are apprehensive that taking advantage of the said notice under Section 411(1) of the Act, the owner of the subject premises being the respondent no. 5 herein may take steps to evict them from the subject premises without resorting to the provision of law.

The petitioners have annexed the order dated 25th September, 2023 passed by this Court in WPA No. 9807 of 2023 (Joy Mukherjee-vs.-

K.M.C. & Ors.) in respect of the self-same premises and in connection with the self-same notice. The Court observed that it will be open for Corporation to take necessary steps in the matter in accordance with Section 411(1) of the Act.

The petitioners' contention is that the notice under section 411(1) is vague as it does not specify the portions which are ruinous and required to be demolished and the portions which may be repaired.

Prayer has been made for directing the Corporation to conduct a spot inspection to ascertain the portions, which may be repaired. In support of the aforesaid submission the petitioners rely upon an unreported order passed by this Bench on 20th July, 2023 in WPO 1424 of 2023 (Manak Nahata & Ors. Vs. The Kolkata Municipal Corporation & Ors.).

Learned Advocate representing the owner of the subject premises submits that the Court already took into consideration the contents of the notice dated 8th September, 2023 and passed necessary order in the matter of Joy Mukherjee (supra).

Learned Advocate for the Corporation relies upon the report of the Corporation which clearly mentions that the chajjas, parapet, verandah walls etc are in a dangerous and ruinous condition and there are trees here and there that have grown up on the structure which are required to be cleared.

It appears from the notice dated 8th September, 2023 that the demolition or the repairing in connection to the subject premises has to be done under the supervision of the empanelled structural engineer of the Corporation. Work in response to the notice under Section 411(1) of the Act is yet to be initiated.

As on date, there is nothing to suggest that the owner has taken steps for evicting the petitioners.

At this stage it appears that there is no requirement of interfering in the matter. If the petitioners face any genuine threat of eviction as alleged, then it will be open for the petitioners to approach the appropriate forum for remedy.

The writ petition stands disposed of.

The report filed by the Kolkata Municipal Corporation be retained with the records.

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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