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ORDER SHEET

WPO No.1877 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

ROFINA ALAM
VS.
KOLKATA MUNICIPAL CORPORATON & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date:20th December, 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:-The petitioner is aggrieved by the notice issued under Sections 544 & 546 of the Kolkata Municipal Corporation Act, 1980 dated 01.12.2023 issued by the Executive Engineer(Civil)/Building, Borough-VI intimating that the assistants and workmen of the Corporation will enter the premises no. 37A, Taltala Lane, Ward No.62, Borough-VI, Kolkata-700016 on 21.12.2023 for demolishing the unauthorised structure in terms of the order passed under Section 400 (1) of the Kolkata Municipal Corporation Act, 1980.

The petitioner claims to be a tenant for the subject structure. The petitioner's grievance is that the copy of the order of demolition was not served upon her, and accordingly, she could not avail the benefit of preferring the appeal before the statutory appellate forum.

Learned advocate representing the Corporation relies upon the order passed by this Court on 12th September, 2023 in WPA No. 89 of 2023 (Md. Shahnawaz Khan Vs. The Kolkata Municipal Corporation & Ors.) wherein the Court recorded that the order of demolition was affirmed by the Municipal Building Tribunal and the Corporation was taking steps to implement the same.

It has been submitted that the husband of the petitioner was a party in the aforesaid writ petition being WPA No. 89 of 2023 and after hearing the submission made on behalf of the husband of the petitioner the Court passed the order. It has

been submitted that the petitioner does not have any independent separate right to prefer an appeal against the order of demolition.

Upon hearing the parties, it appears that the order of demolition was scrutinized and thereafter duly affirmed by the Municipal Building Tribunal. Challenging the order passed by the Tribunal, the aforesaid writ petition being WPA No. 89 of 2023 was filed. The High Court passed order for giving effect to the order of demolition. For implementation of the order of demolition, the Corporation is acting in terms of the order passed by the Municipal Building Tribunal and this Court. It appears that there is no scope to grant any further opportunity to the petitioner to challenge the said order before the appellate forum. The order of demolition already stood affirmed by the statutory appellate forum.

In view of the above, the prayers of the petitioner cannot be allowed. The writ petition fails and is hereby dismissed.

The Corporation shall proceed to take steps to implement the order of demolition in accordance with law.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)

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