

14 21.02.2024
NB Ct. 24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(Appellate Side)

WPA 2627 of 2024

Istekhar Ahmed
Vs.
The Kolkata Municipal Corporation & Ors.

Mr. Niladri Sekhar Ghosh,
Mr. Debarshi Brahma.
..for the petitioner.

Mr. Gopal Chandra Das,
Mr. Atis Kumar Biswas.
...for the KMC.

Report filed by the engineers of the Corporation be retained with the records.

Learned advocate representing the petitioner has produced an information provided by the Municipal Building Tribunal, Kolkata Municipal Corporation wherefrom it appears that BT Appeal No.211 of 2023 filed by the petitioner challenging the order of demolition passed by the Special Officer, Building under Section 400(1) of the Kolkata Municipal Corporation Act, 1980 is fixed on 7th March, 2024 for S/R and A/D.

As it appears that the statutory appeal preferred by the writ petitioner is pending consideration before the appellate forum, accordingly, the decision taken by the Corporation to demolish the subject structure during pendency of the statutory appeal ought not to be implemented at this stage.

If the order impugned is implemented prior to the appeal being decided by the appellate forum, the appeal itself will be rendered infructuous and the petitioner will be left remediless.

For ends of justice, the Corporation is restrained from giving any effect or further effect to the order of demolition till 31st May, 2024 or until further order whichever is earlier.

The Executive Engineer of the concerned Borough is directed to immediately transmit the records of the case file to the Tribunal so that the matter can be decided by the Tribunal without any further delay.

The Tribunal is requested to endeavour to decide the appeal within the time limit as specified herein above.

The petitioner is restrained from making any construction over the subject property and further restrained from selling/ transferring/ alienating or creating any third party right over the subject property till the appeal is finally decided.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)