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11.03.2024
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 7272 of 2024

**Sk. Atior Rahaman
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. Gazi Faruque Hossain,
Ms. Priyanka Mondal.
...For the Petitioner.**

**Mr. Gopal Chandra Das,
Ms. Suvasree Ghose.
...For KMC.**

Premises no. 88/14A, Prince Anwar Shah Road, Ward No. 93, Borough-X of the Kolkata Municipal Corporation is suffering an order of demolition passed by the Special Officer (Building) on 30th November, 2023.

The petitioner being aggrieved by the said order challenged the same before the statutory appellate forum, although beyond the prescribed period of limitation, on 7th March, 2024. Date has been fixed by the Tribunal for hearing of the same on 15th April, 2024.

Learned advocate appearing for the petitioner prays that the impugned order of demolition may not be given effect to till the appeal is decided by the Learned Tribunal.

It appears from the submission made on behalf of the petitioner that admittedly there has been delay in preferring the appeal. Keeping in mind that the order in

question is an appealable one, the Court intends to give one opportunity to the petitioner to canvas his case and test the order of demolition before the statutory appellate forum. If the impugned order is given effect to at this stage then, the appeal will become infructuous and the petitioner will be left remediless.

Accordingly, the Kolkata Municipal Corporation is directed not to give any effect and/or further effect to the order of demolition till 28th June, 2024 or until further order whichever is earlier.

In the event the petitioner fails to obtain any order of stay/vacating or setting aside the impugned order of demolition, then it will be open for the Corporation to proceed with the order of demolition in accordance with law.

The Executive Engineer (Building), Borough-X is directed to immediately transmit all records of the subject case to the Tribunal so that the prayer for stay made by the petitioner may be considered by the Tribunal on the adjourned date i.e. 15th April, 2024 or soon thereafter. The Tribunal is requested to endeavour to dispose of the appeal within the date as specified herein above.

The petitioner is restrained from carrying out any further construction or selling/transferring/alienating and/or creating third party right over the subject premises till the matter is decided by the Tribunal. The petitioner is also restrained from using the ground floor car parking space for commercial purpose.

The Corporation is directed to act on the basis of the communication made by the learned advocate.

The 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.)