

01.04.2024
Item No.01
Court No.6.
S. De

MAT 569 of 2024
With
I.A. No. CAN/2/2024

Animesh Maiti & Ors.
Vs
The Kolkata Municipal Corporation & Ors.

Mr. Kamlesh Jha,
...for the appellants.

Mr. Pritam Choudhury
Mr. Partha Sarathi Sen Sharma,
...for the State respondents.

Mr. Gopal Chandra Das,
Mr. Dwijadas Chakraborty,
Mr. Hare Krishna Halder,
Mr. Atish Kr. Biswas,
...for the K.M.C.

Read order dated March 22, 2024.

In terms of that order, the concerned Executive Engineer, Kolkata Municipal Corporation, has filed a report. Let the same be kept with the records.

The report is to the following effect :

“The superstructure is well supported with 200 mm thick brick walls resting on 100mm thick concrete slab. The structure is well supported with adequate columns having size of 250mm x 40mm. No unconsolidated settlement is observed with naked eye and also there are no visible signs of any crack at the surface. The

party was asked to furnish relevant documents regarding the stability or sanction of the entire building. But they failed to produce any sort of valid legal documents.

The substructure of the building cannot be ascertained from outside. To ascertain the strength and stability of the structure, it is better to test the entire building by any govt. recognized institution. After checking the entire building by naked eye the building cannot be declared safe and stable as the quality of materials, design and workmanship is unknown.

Without knowing the quality of material, design, workmanship in the construction and foundation details of the structure, it is very difficult to formulate any specific opinion on the structural stability of the building. However, observing the outer condition of the building in naked eye it may be said that, the same may not collapse within 15 April, 2024 since no visible crack and unconsolidated settlement is found from outer periphery of the structure at the time of inspection.”

Although the report does not appear to be very helpful, one thing appears from the report and that is by April 15, 2024, the building in question is unlikely to collapse.

Learned advocate for the appellants says that no coercive action should be taken against the building in question till the period of Ramzan is over.

Accordingly, we grant time to the appellants to vacate the premises in question on or before April 15, 2024. Immediately thereafter, the Kolkata Municipal Corporation will be at liberty to demolish the building in question and the State machinery shall extend all necessary co-operation and assistance for that purpose. This breathing space is being granted to the appellants only on humanitarian grounds, although they have no legal right to oppose the demolition of the illegal/unauthorized structure.

The appellants say that they have been taken a ride by the developer of the property in question. The appellants will be at liberty to claim compensation against the developer in accordance with law before the appropriate forum.

We also make it clear that although, on the earnest prayer of the appellants, we have permitted them a fortnight's time to vacate the premises in question, they continue to occupy the building in question at their own peril. Neither the Kolkata

Municipal Corporation nor anybody else will be responsible in case any untoward incident happens.

MAT 569 of 2024 is disposed of along with the application being I.A. No. CAN/2/2024.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Arijit Banerjee, J.)

(M.V. Muralidaran J.)