

20.09.2024

Ct No.6

as
05

FMA 615 of 2024

with

CAN 1 of 2024

Md. Hasinuddin & Ors.

Vs.

State of West Bengal & Ors.

Mr. Nikhil Kr. Gupta,
Mr. Mrityunjoy Saha.

...for the Appellants.

Mr. N. C. Bihani,
Ms. Manisha Nath.

...for the KMC.

Mr. Lalit Mohan Mahata, AGP,
Mr. Ziaul Haque.

...for the State.

1. Appellants contend illegal structures have been constructed on the footpath abutting a public street interfering with his free egress and ingress to his premises. Hon'ble Single Judge failed to consider statutory duty of the Corporation under Section 372 of the Kolkata Municipal Act to ensure that no person shall make any fixed or movable structure of permanent or temporary nature on a footpath.

2. Mr. Bihani for Corporation seeks time to take instruction in the matter.

3. In light of the grievance expressed, we direct Executive Engineer, Civil Borough-IX, Roads Department, The Kolkata Municipal Corporation shall inspect the spot to ascertain whether illegal obstruction has been set up on public street in front of the appellant's premises which is prohibited under Section 371 of the Kolkata Municipal Corporation Act.

4. In the event, any obstruction is noted, Corporation authorities after giving due notice to the encroachers concerned shall take steps for removal of such illegal construction on a public street in accordance with law.

5. With this direction, appeal and the connected application are disposed of.

6. There will be no order as to costs.

7. Urgent Photostat certified copy of the order, if applied for, be given to the parties on usual undertaking.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)