

07
16.04.2024
d.p.

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

W.P.A 10362 of 2024

**Rajiv Sharma & Ors.
-versus
The State of West Bengal & Ors.**

**Mr. Moyukh Mukherjee,
Ms. Sagnika Banerjee.
...For the Petitioners.**

**Mr. Alak Kumar Ghosh,
Mr. Dwijadas Chakraborty.
...For KMC.**

The instant writ petition has been filed at the instance of the thika tenants of the structure at 15/H/1, Narkeldanga North Road, Ward No. 29, Borough-III of the Kolkata Municipal Corporation.

The petitioners submit that they are in occupation and possession of the ground floor of the structure for nearly five decades. They submit that no opportunity of hearing was granted to them prior to the order of the demolition being passed.

An earlier writ petition being WPA 23522 of 2023 in connection with the same construction was filed by one Suprabhat Basu and an order was passed by this Bench on 29th September, 2023 where the Court took note of the fact that the Corporation invoked the provision of Section 400(8) of the Kolkata Municipal Corporation Act, 1980 and conducted demolition of a portion of the structure.

The order passed by this Bench was carried in appeal and the Hon'ble Division Bench vide order dated 9th January, 2024 passed in MAT 1973 of 2023 with IA No. CAN 1 of 2023 was pleased to affirm the order passed by this Bench. A prayer was made for stay of operation of the judgment and order. The same was also considered and refused.

The Court is not aware as to whether the order of the Division was carried in appeal before the Hon'ble Supreme Court of India.

Learned advocate appearing for the petitioners submits that the Corporation will conduct further demolition day after tomorrow i.e. 18th April, 2024. Prayer has been made to stall the demolition process and to afford an opportunity of hearing to the petitioners.

The Court has considered the submission made on behalf of the petitioners. Admittedly, a four storied building has been raised without obtaining any sanction. The petitioners claim to be the thika tenants of the subject structure. The Corporation took recourse to Section 400(8) of the Act. There is no provision for affording prior opportunity of hearing if the aforesaid provision is invoked. Steps taken by the Corporation were affirmed by the Single Bench as well as the Hon'ble Division Bench.

At this stage, there is hardly any scope to stall the work of demolition.

The Corporation is directed to proceed with the demolition work and continue the same till the entire unauthorized structure is brought down.

The Officer-in-Charge of the Narkeldanga Police Station is directed to render all necessary help and assistance to the men and agents of the Corporation at the time of implementing the order of demolition.

The writ petition, accordingly, stands dismissed.

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

(Amrita Sinha, J.)