

A1552

12-06-2024

AKG

Ct. 15

**WPA 11402 of 2024**

**Puspa Rani Das**

**Vs.**

**The Kolkata Municipal Corporation & Ors.**

Mr. Sarbananda Sanyal

...for the Petitioner

Mr. Rudranil Dey

Ms. Manisha Nath

...for KMC

Let the affidavit of service filed by the petitioner be kept with the records.

The factual backdrop of this case will be apparent from the order passed in the earlier round of writ petition. The relevant part of the said order dated July 11, 2022 passed in WPA 12067 of 2022 ( Puspa Rani Das vs. the KMC & Ors.) is quoted below:

**“Aggrieved by the order passed by the Executive Engineer (Civil)/Bld. Dept., Borough-X of the Kolkata Municipal Corporation in D/Case No. 21-D/Br.-x/22-23, communicated vide Memo dated 11<sup>th</sup> June, 2022, the petitioner preferred an appeal before the Municipal Building Tribunal being B.T. Appeal No. 109 of 2022 on 22<sup>nd</sup> June, 2022.**

**It has been submitted that no date has yet been fixed for hearing of the said appeal. The petitioner apprehends that during the pendency of the appeal, the men and agents of the Kolkata Municipal Corporation may take steps for demolition of the alleged unauthorized construction immediately after the period mentioned in the demolition order expires.**

**Without going into the merits of the impugned order, as it appears that the petitioner has already**

**approached the Municipal Building Tribunal by filing an appeal against the order of demolition, the men and agents of the Kolkata Municipal Corporation are restrained from taking any further steps in the matter till 31<sup>st</sup> August, 2022. Learned advocate for the petitioner is granted leave to apprise the Municipal Building Tribunal about the urgency involved in the matter and to seek an urgent hearing of the appeal highlighting his apprehension. The writ petition stands disposed of.”**

It has been submitted by the learned advocate appearing for the petitioner that though the petitioner had preferred the appeal along with a prayer for stay, the tribunal could not decide the said prayer.

He further submits that the tribunal is not functioning as on date, but the Corporation is issuing repeated notices for demolition of the relevant construction.

Learned advocate appearing for the Kolkata Municipal Corporation submits that part of the building has already been demolished on April 5, 2024, in terms of the demolition order dated June 11, 2022.

I am of the view that the tribunal ought to have considered the prayer for stay of the operation of the demolition order.

Admittedly, the tribunal is not functioning. Therefore, I deem fit and proper to stay the hand of the

Corporation from proceeding with the demolition order till the disposal of the appeal pending before the Building Tribunal.

The Kolkata Municipal Corporation shall be at liberty to pray for vacation of this stay order before the Building Tribunal.

If such application is filed before the corporation, the tribunal shall decide the same without being influenced by any observation made in this order and without making reference to this Court.

With the aforesaid observation, **WPA 11402 of 2024** is disposed of.

Urgent certified *website* copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

**(Kausik Chanda, J.)**