

16.07.2024

Ct No.6

as
20

MAT 928 of 2024

with

CAN 1 of 2024

Samir Ranjan Mukherjee

Vs.

The Kolkata Municipal Corporation & Ors.

Mr. K. C. Das,
Mr. Souvik Sen,
Mr. Sumanta Ganguly.

....for the Appellant.

Mr. Alok Kr. Ghosh.

.....for the KMC.

Mr. Pankaj Agarwal,
Ms. Champa Pal.

...for the Respondent No.6.

1. Appellant is aggrieved by the impugned order directing demolition of a two storied structure standing on premises No.22/1, Diamond Harbour Road, Ward No.081, Borough No.X.

2. Respondent/writ petitioner approached the Hon'ble Single Bench, inter alia, praying for demolition of the said unauthorized construction. Noting that Corporation authorities had instituted proceedings for demolition of the two storied structure, the Hon'ble Single Bench directed conclusion of the demolition proceedings within a stipulated time frame.

3. Appellant contends that an old structure was standing on the premises. Due to cyclone the boundary wall had been damaged and was repaired. Even the grievance expressed by the writ petitioner/respondent was with regard to illegal construction on the southern portion of the premises.

4. In view of the aforesaid submissions, this Court directed Executive Engineer of the Borough concerned to inspect the unauthorized construction with regard to its age.

5. Inspection report is placed before us. The report, inter alia, notes as follows :-

(i) Appellant could not show any material with regard to the age of the present building.

(ii) On the other hand, photograph available with the department shows a small tin shed structure. Presently, a two storied structure has come on the premises without sanction plan.

(iii) The Engineer concluded :-

“on visual observation of the existing building it cannot be said that the present two storied structure has been existing for a long period of time.”

6. These observations clearly show that the unauthorized construction is a recent one and was made after the tin shed structure had broken down due to ‘Amphan’ cyclone in 2020. Admittedly, no sanction

plan was obtained to construct the unauthorized two storied structure.

7. Finally, a desperate plea was raised that the appeal before the Municipal Building Tribunal is pending.

8. Pendency of an appeal does not by itself entail suspension of a demolition order. Moreover, the appellant has not even raised an iota of justification with regard to validity of the two storied structure. Hence, we find no reason to interfere either with the demolition order or the order impugned.

9. In light of the aforesaid discussions, the appeal and the connected application are dismissed.

(Partha Sarathi Sen, J.)

(Joymalya Bagchi, J.)