

D/L
Item No. 07
24.05.2024
KOLE

**MAT 1006 of 2024
With
IA CAN 1 of 2024**

**Manas @ Manash Dharson
-Vs.-
The Kolkata Municipal Corporation & Ors.**

*Mr. Subhadip Biswas,
Mr. Ranajit Roy,
Ms. Dona Saha,
Ms. Kaberi Mukherjee,*

...for the appellant.

*Mr. Barin Banerjee,
Mr. Gopal Chandra Das,*

...for the KMC.

*Mr. S. Kr. Mitra,
Mr. A. Paul*

...for the State.

A judgment and order dated May 10, 2024, whereby the appellant's writ petition being WPA 19397 of 2023 was disposed of by a learned Judge of this Court, is under challenge in this appeal filed at the instance of the writ petitioner.

It appears that the appellant/writ petitioner made unauthorized construction in deviation from sanctioned plan. Proceedings were held by the competent authority on the complaint lodged by the owner of the property. A demolition order was passed against the appellant. The appellant challenged the same before the Municipal Building Tribunal. That appeal, however, was withdrawn by the appellant subsequently.

It appears that on April 16, 2024 an undertaking was furnished by the appellant before the concerned Executive Engineer specifically mentioning that the sanitary goods lying at the site in question would be vacated within 15 days.

The appellant approached the learned Single Judge in this round of litigation by filing WPA 19397 of 2023 challenging the demolition order. The learned Judge noted that the writ petitioner has furnished an undertaking to the Executive Engineer as noted above. Accordingly the learned Judge disposed of the writ petition with the following observation:-

“The petitioner will be bound to act in accordance with the undertaking given before the Executive Engineer and vacate the premises in the aid of demolition. On expiry of the time sought to vacate, it will open for the Corporation to proceed with the demolition work”.

We find absolutely no merit in the order under appeal. The appellant himself furnished an undertaking to the concerned Executive Engineer to vacate the premises in question so that the same can be demolished. Having done so, we see no reason for granting any relief to the appellant.

The appellant tried to argue that the undertaking was furnished under duress. There is nothing on record to suggest that the appellant was forced to furnish such undertaking. The same is obviously an afterthought.

We find no reason to interfere with the order under appeal, which accordingly, fails and is dismissed along with the connected application.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Arijit Banerjee, J.)

(Prasenjit Biswas, J.)