

27.06.2024
ADSL.1
Suman
Ct.No.15

WPA 16667 of 2024

Md. Moinuddin @ Sirajuddin
Vs.
The State of West Bengal and Ors.

Mr. Somnath Gangopadhyay
Mr. S. Chakraborty
....for the petitioner

Mr. Subhrangsu Panda
Ms. Ina Bhattacharyya
..for K.M.C.

A demolition order dated August 14, 2023 under Section 400(1) of the Kolkata Municipal Corporation Act, 1980 was served upon the petitioner. The order was carried in B.T. Appeal No.188 of 2023, before the Building Tribunal of the Corporation.

It is not in dispute that the appeal was admitted by the Tribunal and the writ petitioner filed a stay application in connection with the appeal. The said application, however, could not be decided by the Tribunal.

During pendency of the appeal, the Corporation issued an impugned notice dated June 11, 2024, for implementation of the demolition order.

Learned advocate appearing for the petitioner has drawn attention of this Court to a Division Bench order dated April 29, 2024, passed in APOT 78 of 2024

to argue that as on date the Building Tribunal is not functional for want of a Judicial Member to preside over the Tribunal. The said Division Bench has directed the State to take immediate steps for filling up the office of the Judicial Member/Chairman/President of the Tribunal as expeditiously as possible and preferably within a period of one month after completion of the Lok Sabha General Election 2024.

In my view, since the petitioner is not in a position to pursue his application for stay before the Tribunal for no fault on his part, an interim protection should be granted to the petitioner.

Accordingly, I dispose of the writ petition with the following orders.

The operation of the notice dated June 11, 2024, shall remain stayed for a period of one month after the date of re-opening of the Tribunal. After its re-opening, the Tribunal shall expeditiously take up the appeal and stay application for hearing. The Tribunal shall decide the stay application and the appeal on its merit without being influenced by this order passed in this writ application.

Accordingly, **WPA 16667 of 2024** is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)