

10.07.2024
Ct. No. 14
Sl. No.10.
KB

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

W.P.A. 17498 of 2024

**Manoj Tewari
Vs.
The State of West Bengal & Ors.**

Mr. Koustav Bagchi
Mr. Debayon Ghosh
Ms. Priti Kar
... For the petitioner.

Mr. Amitesh Banerjee, Sr. Standing Counsel
Mr. Tarak Karan
... For the State respondents.

Mr. Ajit Kumar Chaubey
Mr. Kushal Chatterjee
Mr. Noorul Islam
Mr. Vinayak Chaubey
Mr. Harshit Jaiswal
Ms. Aindrila Chatterjee
Mr. Debojit Belel
... For the respondent nos. 7, 8 & 9.

The petitioner seeks police protection for implementation of the notice under Section 411(1) of the Kolkata Municipal Corporation Act, 1980 issued by the Executive Engineer (Civil) Building, Borough - XV dated 29th April, 2024.

The notice mentions that the persons responsible are to demolish the damaged, insecure, dilapidated portion of the building standing at M-92, Paharpur Road, Ward No.133.

The petitioner submits that at the time of execution of the direction as per the said notice, the private respondents have restrained the petitioner from doing so.

Learned advocate representing the respondent nos. 7, 8 and 9 being the owners of the adjoining premises no. M-93, Paharpur Road submits, upon instruction that, the two premises i.e. M-92 and M-93 are adjoining each other having a common wall. At the time of demolition of the dangerous building at M-92, the wall of the structure standing at M-93 may be damaged.

The private respondents are concerned with their own property and they do not have any objection if the dangerous portion of the structure standing at premises no.M-92 is demolished.

It appears from records that the petitioner has been issued a notice under Section 411(1) of the Kolkata Municipal Corporation Act, 1980 requiring him to demolish the damaged, insecure and dilapidated portion of the building.

There may be private disputes in between the owners and occupiers of the two adjacent premises, but the same should not stand in the way of taking steps in accordance with the notice issued under Section 411(1) of the Kolkata Municipal Corporation

Act, 1980. If the dangerous building is not permitted to be demolished, then valuable lives and property of the occupiers of the said building may be in danger.

The petitioner, claiming to be the owner of the subject property at M-92, Paharpur Road, Kolkata, will also not be in a position to enjoy the property safely and peacefully.

The report filed by the Officer-in-Charge, Metiabruz Police Station signed on 9th July, 2024 mentions that a Title Suit No. 517/24 is pending before the learned 3rd Civil Judge (Junior Division), Alipore.

The police ought not to enter into the civil disputes in between the private parties. The police are required to maintain peace and law and order in the society.

The petitioner shall be permitted to act in accordance with the notice dated 29th April, 2024 issued under Section 411(1) of the Kolkata Municipal Corporation Act, 1980 and the police shall ensure that the petitioner is not obstructed or restrained by any person at the time of implementation of the direction in the notice under Section 411(1) of the KMC Act, 1980. Failure on the part of the petitioner to act in accordance with the said notice may lead to other legal

complications which the petitioner ought not to suffer because of the resistance of the private parties.

The petitioner, however, will be bound to repair the portion of the common wall standing in between the premises no. M-92 and M-93, Paharpur Road, Kolkata in the event any damage is caused to the same at the time of demolition of the dilapidated structure.

The petitioner shall take all preventive measures to ensure that no damage or minimum damage is caused to the adjoining structure at M-93, Paharpur Road, Kolkata.

In the event the petitioner faces any obstruction or resistance at the time of causing demolition, the police shall render necessary assistance to the petitioner and ensure that no breach of peace takes place at the locale.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)