

09.12.2024
Item No.33
Ct. No. 30
Aloke

WPA 17712 of 2018

**Debasis Bandyopadhyay & Anr.
Vs
The Kolkata Municipal Corporation & Ors.**

Mr. Debasis Bandyopadhyay
... petitioner-in-person

Ms. Arpita Shah
Ms. Rituparna Chatterjee
Mr. Dhruva Bahety
... for the respondent no. 5

Mr. Alok Kr. Ghosh
Mr. Dipankar Ghosh
... for the KMC

The present writ petition has been preferred praying for direction upon the respondent no. 1 and his men and agent to cancel the revised sanction plan dated 29.01.2016 and direct the private respondents to demolish the brick built wall constructed at the South-East corner of the open terrace-V/roof garden of the building, being Aura by the Lake at premises no. 58/1, Suren Sarkar Road, Kolkata-700 010.

Admittedly, the petitioner purchased a flat in the property in this case on 14th July, 2017.

Mr. Alok Ghosh, learned senior counsel appearing for the Kolkata Municipal Corporation has submitted a status report which is reproduced herein for convenience :-

“Pursuant to the order of Hon’ble High Court, Calcutta dated 11/11/2024 in respect to WPA 17712 of 2018 (Debasish

Bandyopadhyay & Anr. Vs. KMC & Ors.) a status report furnished below –

*This is a partly G+IV and partly G+V storied residential building at the captioned premises sanctioned vide B.P. No. 2011030079 dated 30/03/2012. A demolition case proceeding was initiated against the person responsible Ravi Churiwal, an order passed by the Special Officer (Building) Vide D/case no. 03-D/III/2015-2016 dated 29/08/2015 which was subsequently approved by the Hon'ble Mayor. Further more a completion certificate **U/R 28 of KMC Bldg. Rule 2009** issued to the applicant vide no. B/12/III/2015-16 dated 02/02/2016.”*

Mr. Ghosh has placed Section 400 (3) of the KMC Act.

The said provision lays down:-

“Section 400(3) in Kolkata Municipal Corporation Act, 1980:-

(3)Any person aggrieved by an order of the Municipal Commissioner made under sub-section (1) may, within thirty days from the date of the order, prefer an appeal against the order to the Municipal Building Tribunal appointed under Section 415.”

The petitioner entered into the premises in this case in the year **2017**. A completion certificate in accordance with law was issued under Rule 28 of the KMC Building Rule, 2009 vide no. B/12/III/2015-16 dated 02.02.**2016**.

Considering the said facts, the petitioner, if aggrieved, has to approach the concerned authority with a fresh prayer which the authority may consider in accordance with law but against the said order issuing

completion certificate on 02.02.2016, an appeal lies before the Tribunal, as per Section 400(3) of the KMC Act.

The present writ petition thus being not maintainable stands disposed of.

All connected applications, if any, stand disposed of.

Interim order, if any, stands vacated.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties expeditiously after due compliance.

(Shampa Dutt (Paul), J.)