

06.08.2024
Item No.04
Crt.No.02
b.r.

WPA 19973 of 2024

Debabrata Manna & Ors.

-vs-

The State of West Bengal & Ors.

Mr. Kumar Jyoti Tiwari

Mr. Prantick Ghosh

Mr. Prasad Bhattacharyya

..... for the petitioners.

Mr. Debjit Mukherjee

Ms. Susmita Chatterjee

.... For the State-Respondents.

Mr. Alok Kumar Ghosh

Mr. Atis Kumar Biswas

.... For the Kolkata Municipal Corporation.

On the urgency pleaded on behalf of the petitioner and in view of the determination being assigned before this Court today, this writ petition has been taken up for consideration by publishing the same in the supplementary list.

Affidavit of service filed in Court today, is taken on record.

Mr. Kumar Jyoti Tiwari, learned advocate, appears for the petitioners.

Ms. Susmita Chatterjee, learned State advocate led by Mr. Debjit Mukherjee, learned State counsel appears for respondent nos. 1 and 8.

Mr. Alok Kumar Ghosh, learned counsel appears for the Kolkata Municipal Corporation–respondent nos. 2 to 6.

The private respondents are not represented.

The petitioners claimed to have occupied **four individual shop rooms bearing shop room nos. 10, 10A, 12 and one shop room without number** situated at the rear portion of premises **no. 93 Ganapati Sur Lane** also know as **South Sinthee Lane, Kolkata-700030**. The petitioners assailed the notices issued by the **respondent no.6 both dated August 3, 2024** issued under **Section 411 (1)** of the **Kolkata Municipal Act, 1980 at pages 123 and 124** respectively.

Learned counsel, Mr. Tiwari submits that without following the due process of law, the said notices have been issued and ultimately the Kolkata Municipal Corporation authority are proceeding for demolition of the said premises. No opportunity of hearing was granted to the occupiers or owners of the premises which includes the petitioners as occupiers of the premises.

Learned counsel for the petitioners submits that the petitioners are carrying out their livelihood from their respective shop rooms at the said premises. In the event the premises is demolished, without following the due process of law, the petitioners will suffer irreversible loss.

Mr. Ghosh, learned counsel appearing for the Kolkata Municipal Corporation submits the condition of the premises is ruinous. A **particular portion** of the **top floor**, which is the third floor of the premises, is in a complete ruinous state and beyond repair, therefore, the said portion of the **Top Floor** of the premises is immediately required to be demolished.

Learned counsel for the Kolkata Municipal Corporation further submits for carrying out the demolition work, request was made to the petitioners to remove themselves from the said premises for the time being so long the demolition is carried out considering the risk factors involved in the vicinity during carrying out of the demolition work. It is for the safety of the occupiers.

Accordingly, the petitioners were served with the notice. Accordingly, the local police station was also requested to provide assistance to the Kolkata Municipal Corporation.

Mr. Ghosh, on instruction, further submits that the work of demolition for the time being shall be restricted to a portion of the **Top Floor** of the building. There is no direction from the appropriate authority for demolition of the ground floor shop rooms for the time being, of which the petitioners are in occupation. In the event, any further instruction comes from the

appropriate authority for demolition of the ground floor and specifically the shop rooms of the petitioners, then the petitioners shall be informed with prior notice in accordance with law.

Mr. Ghosh further informs that in **2015** the owners and occupiers of the premises were served with notice **under Section 411(1) of the Kolkata Municipal Corporation Act.**

Learned counsel for the petitioners has disputed the submissions made on behalf of the Kolkata Municipal Corporation authority with regard to the service of notice in 2015 issued **under Section 411(1) of the Kolkata Municipal Corporation Act.**

In view of the submissions made on behalf of the Kolkata Municipal Corporation as recorded above, no further order is required to be passed in this writ petition, at this stage.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

It is made clear that this Court has gone into the merits of the writ petition.

With the above observations, this writ petition, **WPA 19973 of 2024** stands **disposed of**, without any order as to costs.

Photostat certified copy of this order, if applied for,
be furnished expeditiously.

(Aniruddha Roy, J.)