

22.01.2024

S. L.8

PP

Ct.No.15

WPA 22903 of 2018

Arabinda Sarkar

Vs.

The Calcutta Municipal Corporation & Ors.

Mr. Dinendra Nath Chatterjee,
Mr. Partha Sengupta

... for the petitioner.

Mr. Gopal Chandra Das

... for KMC.

Affidavits-in-reply filed on behalf of the petitioner are taken on record.

No one appears for the respondent nos.4 and 5 today.

However, Kolkata Municipal Corporation is represented by the learned advocate.

In the writ petition, the order dated 6th February, 2014 of the Special Officer (Building) of Kolkata Municipal Corporation is under challenge.

It has been submitted by the learned advocate representing the Corporation that the order dated 6th February, 2014 is an appealable order under Section 400(3) of the Kolkata Municipal Corporation Act, 1980 before the Municipal Building Tribunal. Therefore,

according to the Corporation, the writ petition is not maintainable against an appealable order.

Having heard the learned advocates representing the parties and perusing the order dated 6th February, 2014 which is challenged in this writ petition, it appears that the Special Officer (Building) by the impugned order directed one part of the unauthorised construction to be demolished and at the same time rest part of the alleged unauthorised construction was allowed to be retained upon imposing certain conditions.

It appears that there is an appeal provision under Section 400(3) which has not been availed by the petitioner after passing order dated 6th February, 2014 by the Special Officer (Building). It is not a case of gross violation of principles of natural justice and there is no allegation to that extent made in this writ petition.

In view of the aforesaid facts, the present writ petition is disposed of by granting leave to the petitioner to prefer appeal under Section 400(3) before the Municipal Building Tribunal within a period of three weeks from date against the order dated 6th February, 2014.

In the event, the petitioner prefers an appeal within the aforesaid period against the order dated 6th February, 2014, the same shall be decided in accordance with law within a reasonable period.

However, there will be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)