

25.09.2024
AKG
79
Ct.No.15

WPA 24366 of 2024
Ram Babu Shah
Vs.
The Kolkata Municipal Corporation and Ors.

Mr. Dinendranath Chatterjee
Mr. Partha Sengupta
Mr. Biswaroop Sengupta
..for the Petitioner

Mr. Nayan Chand Bihani,
Mrs. Poushali Banerjee
..for KMC

It appears that a demolition order dated June 27, 2024, has been sought to be implemented by the Corporation by issuing a notice dated September 18, 2024, at premises no. 49/5/H/138, Karl Marx Sarani, Ward No. 79, Borough-IX, Kolkata – 700 023, under Kolkata Municipal Corporation.

It is an admitted position that an appeal (B.T. Appeal No. 84 of 2024) is pending against the said demolition order before the Building Tribunal.

Learned advocate appearing for the petitioner submits that since the Building Tribunal is not functioning, the appeal could not be decided, though it was fixed for peremptory hearing.

It has been submitted by the learned advocate appearing for the Corporation that the Building Tribunal is expected to resume its functioning soon.

I am of the view that the petitioner should be allowed to exhaust his appellate remedy.

Accordingly, this writ petition is disposed of with the following orders:

An endeavour shall be made by the Tribunal to dispose of the appeal within a period of two months from the date of resumption of its function.

Operation of the demolition order dated June 27, 2024, is stayed for a period of two months from date or till the disposal of the appeal, whichever is earlier.

If the appeal is not disposed of within the stipulated time period, the petitioner will be at liberty to apply before the Building Tribunal for extension of the stay order.

The Tribunal shall decide the extension of stay in accordance with law without being influenced by the orders passed in this writ petition.

Needless to mention that in the event, the stay order is not extended by the Tribunal, the Corporation will be at liberty to proceed with the demolition work.

Accordingly, **WPA 24366 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.)