24.09.2024
AKG
85
Ct.No.15

WPA 24391 of 2024

Md. Rafique
Vs.
The Kolkata Municipal Corporation and Ors.

Md. Shah Jahan Hossain,
Ms. Sanjida Sultana
..for the Petitioner

Mr. Atis Kumar Biswas,
Ms. Sharmila Deb
..for KMC

A demolition order was passed against the petitioner on May 15, 2024 for an unauthorised construction at premises no. B/11/H/6/1/2, M. M. Ali Road, P.S. – Ekbalpore, Kolkata – 700 023, by the Kolkata Municipal Corporation.

It is an admitted position that an appeal (B.T. Appeal No. 102/2024) 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 three months from the date of resumption of its function.

Operation of the demolition order dated May 15, 2024, is stayed for a period of three 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 24391 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.)