

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble **Justice Kausik Chanda**

W.P.A. No.24596 of 2024

MD. TANVEER

-VERSUS-

THE STATE OF WEST BENGAL AND OTHERS

For the petitioner : Mr. Bijoy Adhikary, Adv.,
Mr. Dyutiman Banerjee, Adv.,
Mr. Vishal Mallick, Adv.,
Ms. Susmita Adhikary, Adv.

For Kolkata Municipal Corporation : Mr. Vimal Kumar Shahi, Adv.,
Mr. Avishek Sikder, Adv.

Hearing concluded on : 26.09.2024

Judgment on : 30.09.2024

Kausik Chanda, J.:-

This is the second frivolous writ petition to sustain a G+4 storied construction without any sanctioned plan.

2. On the earlier occasion, the petitioner approached this Court challenging the notice issued under Sections 544 and 546 of the Kolkata Municipal Corporation Act, 1980, to implement a demolition order dated February 7, 2024.

3. This Court disposed of the said writ petition on September 11, 2024, with the following observations:

“To challenge the demolition notice under Sections 544 and 546 of the Kolkata Municipal Corporation Act, 1980, primarily, two points have been raised by the petitioner. First, the petitioner contends that he was not heard before the authority and second, he argues that the order of demolition was not communicated to him.

From the records produced by the Corporation before this Court, it appears that the petitioner was duly given notice to attend the hearing but he chose not to attend.

The order of demolition was also sent to him with proper address and postal fees.

This Court will have to presume that the order of demolition was also served upon the petitioner.

The petitioner before this Court in challenging the impugned notice could not demonstrate that he raised construction with prior sanction from the Corporation.

In that view of the matter, this Court is not inclined to interfere with the action of the Corporation.

Accordingly, WPA 22722 of 2024 is dismissed.”

4. The petitioner has again filed this writ petition contending, inter alia, that after the order dated September 11, 2024, he attempted to prefer an appeal before the Building Tribunal of the Corporation against the demolition order dated February 7, 2024, but the Corporation has declined to register the appeal.

5. I am of the view that appellate remedy is no more available to the petitioner since the petitioner challenged the order of demolition dated February 7, 2024, in the earlier round of writ petition, W.P.A. No.22722 of 2024, without availing the alternative remedy of statutory appeal.

6. This Court entertained the writ petition and disposed of on merit on September 11, 2024. After such dismissal of the writ petition on merit, the petitioner cannot avail the statutory remedy.

7. This Court, however, for the ends of justice once again asked the petitioner to produce the sanctioned plan of the relevant building, but the petitioner, as usual, has failed to produce the same.

8. Nothing further remains to be decided.

9. Accordingly, W.P.A. No.24596 of 2024 is dismissed.

10. Urgent certified website copy of this judgment, if applied for, be supplied to the parties subject to compliance with all the requisite formalities.

(Kausik Chanda, J.)