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05.02.2024
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**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

**W.P.A. 24156 of 2023
IA No. CAN 1 of 2024**

**Aftab Uddin Molla
-versus
The State of West Bengal & Ors.**

**Mr. Sourav Sengupta.
...For the Petitioner.**

**Mr. Anand Farmania,
Ms. Manisha Nath,
Ms. Dipanita Ganguly.
...For KMC.**

**Mr. Somnath Ganguli,
Mr. Balarko Sen.
...For the State.**

The impugned order of demolition dated 22nd October, 2022 was passed in respect of the premises no. Y-2/108.

The petitioner has separated his portion in December 2023 and the same has been renumbered as Y-2/108/E. The petitioner submits that the proceeding for separation started long back.

It has been admitted that the petitioner appeared in the hearing process conducted under Section 400/400(1) of the Kolkata Municipal Corporation Act, 1980.

It has been submitted that the premises no. Y-2/108, Satghara Road is a big premises and there are several structures which have been constructed unauthorizedly. Corporation is only targeting the petitioner in respect of premises no. Y-2/108/E.

The contention of the petitioner is that the structure which has been held to be unauthorized cannot be treated as such because the structures are not new and have been made only in renovation of the existing structure which is more than 150 years old.

It has been submitted that if the petitioner's structure is held to be unauthorized, then there are several similar structures in the same premises which are also liable to be demolished.

The Executive Engineer of Borough-XV is directed to take necessary steps to ascertain all the unauthorized constructions of the said building and thereafter take necessary consequential steps in the matter.

As regards the submission of the petitioner that he cannot prefer the appeal against the order of the Special Officer as his name is not recorded in the proceeding cannot be accepted. The petitioner himself submits that he was present at the time of hearing. The petitioner is also responsible for making certain unauthorized construction.

The petitioner ought to be permitted to challenge the impugned order of demolition dated 22nd October, 2022 specifically because the Corporation is taking steps for demolition of the petitioner's structure by virtue of the aforesaid order.

The writ petition and the connected application are disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)