

08.10.2024
Sl. No.4
akd

**M. A. T. 1954 of 2024
(CAN 1 of 2024)**

[Md. Tanveer -Vs- The State of West Bengal & Ors.]

Mr. Dyutiman Banerjee
Mr. Vishal Mallick
... .. for the appellant

Mr. Vimal Kumar Shahi
... .. for the KMC

1. Appellant is aggrieved by the impugned judgment and order whereby the Hon'ble Single Judge had dismissed the writ petition as vexatious.
2. A demolition order had been passed in respect of the construction. Appellant approached this court earlier in WPA 22722 of 2024 alleging notice had not been served on him. In the said proceeding, the demolition order was handed over to the appellant and the writ petition was disposed of.
3. Appellant has assailed the demolition order before the Municipal Building Tribunal under Section 400(3) of the Kolkata Municipal Corporation Act. Pending hearing of the appeal, he again approached this court and the writ petition was dismissed.
4. Learned Advocate for the appellant submits demolition order be suspended pending hearing of the appeal.
5. Learned Advocate for the Kolkata Municipal Corporation submits there is no sanction plan and the building is wholly unauthorized.

6. Mere pendency of appeal does not operate as an injunction against the demolition order. Only if the Tribunal suspends the demolition order, the same cannot be executed.
7. Appellant has not placed on record even a shred of material to justify the validity of the construction. He has hopelessly failed to make out a prima facie case in his favour.
8. Under such circumstances, we do not find any illegality in the impugned order.
9. Appeal is accordingly, dismissed.
10. In view of dismissal of the appeal, connected application being CAN 1 of 2024 is also disposed of.
11. Interim order, if any, shall stand vacated.
12. There shall be no order as to costs.
13. Let photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)