

D/L 13
20.11.2024
Court No.14
PRADIP

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

WPA 25595 of 2024
(Assigned)

Asis Kumar Singha
Vs.

The Kolkata Municipal Corporation & ORS.

Mr. Raghunath Chakraborty
Mr. Arijit Bakshi

...for the Petitioner.

Ms. Ina Bhattacharya
Ms. Debangana Dey Nayek

...for the KMC

1. Affidavit of service filed in Court today be retained with the records.
2. The petitioner seeks for consideration of the representation dated 9th August, 2024. He further prays for a direction upon the authority not to obstruct the petitioner from concluding the pending construction work at the subject premises.
3. From the documents annexed to the writ petition, it appears that a demolition proceeding under Section 400/400(1) and 416 in respect of premises no. 66A, Rash Behari Avenue, Ward no. 88, Borough-VIII was initiated and disposed of by the order of the Special Officer (Building) on 2nd March, 2023 whereby the Special Officer (Building) passed the order to demolish four columns at the roof and projection in the second floor marked in the demolition sketch.
4. The Special Officer ordered that on compliance of the aforesaid demolition, remaining construction work may be allowed to be retained on payment of fees under Section 400 (1) including the portion allowed to be retained on the roof for utilization.
5. Learned advocate for the petitioner submits that, the charges demanded by the Corporation has already been paid but despite receiving the total amount of Rs. 1,88,042/- the

Corporation is not permitting the petitioner to conclude the balance construction work.

6. Learned advocate representing the Corporation relies upon the instruction forwarded by the engineers of the Corporation signed on 14th November, 2024 which mentions that a building plan was sanctioned in favour of the petitioner for raising construction of three storied residential building giving the advantage under Rule 142 of the KMC Building Rules, 2009. During erection, the persons responsible extended the building by erecting projected verandah from the first floor to roof level along with some columns over the roof of the three storied structure deviating from the building sanctioned plan. Stop work notice was issued in the year 2019 and a proceeding under Section 400(1) of the KMC Act, 1980 was processed and finally disposed of on 2nd March, 2023. Recent departmental inspection revealed that the person responsible demolished four columns in the roof but the projection at the second floor level and the roof level are yet to be demolished.
7. Learned advocate for the petitioner submits that a prayer for review of the order passed by the Special Officer (Building) is pending consideration.
8. According to the provision of the KMC Act, 1980, the order passed by the Special Officer (Building) is an appealable one. If the petitioner is aggrieved by the same, the petitioner ought to have approached the appellate forum for relief.
9. At this stage, the Commissioner does not have any power to review the said order.
10. In view of the above, the relief sought for by the petitioner cannot be allowed. It will be open for the petitioner to approach the appellate forum for remedy.
11. The instant writ petition stands disposed of.

12. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Amrita Sinha, J.)