

15. 16.04.2024  
Court No.6  
(Tanmoy)

**MAT/2354/2023**

**Md. Wakil Razzaque & Ors.**  
**-Versus-**  
**The Kolkata Municipal Corporation & Ors.**  
**With**  
**IA No: CAN/1/2023**  
**With**  
**IA No: CAN/2/2023**

Mr. Kushal Chatterjee, Adv.,  
Mr. Oishik Chatterjee, Adv.,  
Mr. Abid Jamal, Adv.

...for the appellants/writ petitioners.

Mr. Swapan Kumar Debnath, Adv.,  
Mr. Gopal Chandra Das, Adv.

...for KMC.

Mr. Victor Chatterjee, Adv.,  
Mr. Debaditya Banerjee, Adv.

...for the respondent no.7.

Read orders dated March 5, 2024 and April 5, 2024.

The report of the empanelled Civil Engineer of this Court, Sri Puranjoy Konar, has been circulated amongst the parties.

The said report records the extent of the tenancies of the appellants in respect of the building in question. The parties are more or less happy with the report in the sense that the same reflects the true and correct position. However, Mr. Chatterjee, learned Advocate for the appellants, points out that in respect of the tenanted portion marked as "01", the carpet area cannot be the same as the covered area. The covered area must necessarily be higher than the carpet area as in all the other cases as would appear from the first page of the

report. We think Mr. Chatterjee is right. However, since the parties are more or less addressing the problem at hand in a friendly manner, this minor difference may be sorted out by them.

Mr. Chatterjee further says that the portion of the building which was damaged by fire is not inhabitable and is vacant. The appellants are occupying another portion of the building which was not harmed by the fire. The landlord should first demolish the damaged portion and reconstruct the same. Thereafter, the appellants should be shifted to equivalent areas in the reconstructed portion and the landlord may do whatever he likes with the other portion. This also seems to be a reasonable suggestion and learned Advocate for the landlord (respondent no.7) does not object to the same.

Mr. Victor Chatterjee, learned Advocate for the respondent no.7, however, points out that it would appear from the Engineer's report that the height of the roofs is indicated as 17 ft. This is because the building is a very old one. Old buildings have very high ceilings. Presently, Kolkata Municipal Corporation (in short, 'KMC') may not permit such high ceilings.

We clarify that the height of the ceiling would be such as will be permitted by KMC in accordance with the applicable Building Rules. Naturally, the minimum height as required by law shall be maintained. Once the respondent no.7 obtains a sanctioned plan for

reconstruction, let a copy thereof be made available to learned Advocate-on-Record for the appellants for the purpose of records.

No useful purpose will be served by keeping this appeal pending. Let the report filed by the Engineer be treated as a portion of this order.

The appeal being MAT 2354/2023 and the connected applications being IA No: CAN/1/2023 and IA No: CAN/2/2023 are disposed of.

**(Arijit Banerjee, J.)**

**(Prasenjit Biswas, J.)**