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ORDER SHEET
WPO No.139 of 2024
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SUFIA BEGUM & ANR.
-Versus-
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 29th February, 2024.

Appearance:
Mr. Arindam Banerjee, Adv.
Mr. Tanmoy Sett, Adv.
Mr. Pran Gopal Das, Adv.
...for Petitioners.

Mr. Altamash Alim, Adv.
Ms. Manisha Nath, Adv.
...for KMC.

Mrs. Sipra Majumder, Adv.
Mrs. Debarati Sen (Bose), Adv.
... for the State.

The Court:- The petitioners are aggrieved by the notice under Sections 544 & 546 of the Kolkata Municipal Corporation Act, 1980 issued by the Executive Engineer (Civil)/Building/Borough-III, Kolkata Municipal Corporation issued in favour of Aktar Quresi & Others intimating that the men and agents of the Kolkata Municipal Corporation will enter into the premises no.5C, Kasai Bustee, 1st Lane, Ward No.-29, Borough-III on 20.02.2024 for demolishing the unauthorized construction, namely, RCC framed structure in compliance of the direction passed by the Executive Engineer (Civil)/Building/Borough-III, Kolkata Municipal Corporation on 03.06.2022.

It has been submitted that though the date was fixed on 20.02.2024 for demolition, but the demolition did not take place on the scheduled date. The petitioners have filed an appeal before the learned Municipal Building Tribunal being B.T. Appeal No.24 of 2024 on 16.02.2024 and the same is pending disposal.

It has been submitted that the learned Municipal Building Tribunal is non functional at present and, accordingly, the petitioners pray for stay of the order of demolition for the time being.

Learned advocate representing the Kolkata Municipal Corporation submits, upon instruction received from three engineers of Borough-III of the Kolkata Municipal Corporation that pursuant to the order of demolition dated 03.06.2022

part demolition was done on 17.10.2022. The petitioners did not approach the statutory appellate forum against the order passed by the Executive Engineer (Civil)/Building/Borough-III of the Kolkata Municipal Corporation within the stipulated time period. After the second demolition programme was scheduled, the petitioners have filed the appeal and thereafter the present writ petition.

It appears from the submissions made on behalf of the parties that the appeal preferred by the petitioners is pending consideration before the statutory appellate forum. It is for the appellate forum to decide the legality of the order passed by the Executive Engineer (Civil)/Building/Borough-III of the Kolkata Municipal Corporation.

For the time being, as it has been submitted that the appellate forum is non-functional at present, accordingly, the Executive Engineer (Civil)/Building/Borough-III of the Kolkata Municipal Corporation is restrained from giving any effect or further effect to the order of demolition dated 03.06.2022 till 30.04.2024.

It will be open for the petitioners to apply for stay of the order of demolition before the statutory appellate forum.

Writ petition stands disposed of.

Instruction forwarded by the Officer-in-Charge, Narkeldanga Police Station be retained with the record.

Instruction forwarded by the engineers of the Corporation is also taken on record.

Affidavit of service filed in Court today is taken on record.

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

(AMRITA SINHA, J.)