

IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction
(Contempt)

CC/20/2024
APOT/60/2024
WPO/81/2024

BANANI DUTTA
Vs.
MR. DHAVAL JAIN, THE MUNICIPAL COMMISSIONER,
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE ARIJIT BANERJEE
AND
The Hon'ble JUSTICE PARTHA SARATHI SEN
Date : MARCH 7, 2024.

Appearance:

Mr. Soumya Majumdar, Advocate
Mr. Raghunath Chakrabarty, Advocate
....for Petitioner

Mr. Gurudas Mitra, Advocate
Mr. Swapan Kr. Debnath, Advocate
...for alleged contemnors

The Court: Heard learned advocates for the parties.

On behalf of the petitioner, our attention is drawn to order dated February 13, 2024. The relevant portion of that order is reproduced hereinbelow:-

“After hearing the rival contentions as raised by learned advocates for the parties to the instant appeal, this Court considers that justice would be sub-served if the KMC is directed to supply a copy of the spot inspection report to the present appellant well before hand before the

next date of hearing and in the event the same is not possible, positively on the next date of hearing so as to afford the present appellant a reasonable opportunity to counter such spot inspection report. It is further directed that in course of the said demolition proceedings if KMC prepares any further document, copy of the same shall be served upon the present appellant also well before hand. Since the private respondent is also a party to the said demolition proceedings, copies of the spot inspection report and other documents, if there be any, shall be served upon the private respondent.”

It is contended on behalf of the petitioner that though this Court directed the alleged contemnors to supply a copy of the spot inspection report well beforehand before the next date of hearing and in the event the same is not possible, positively on the next date of hearing, but the inspection report was handed over on February 20, 2024 and immediately thereafter, on that day itself, hearing was concluded without giving any reasonable opportunity to the petitioner to counter such spot inspection report which, according to the learned counsel for the petitioner, is in utter violation of our earlier order as mentioned above.

In course of his submission, Mr. Mitra, learned advocate for the alleged contemnors, submitted that admittedly, a delay has occurred in supplying a copy of the spot inspection report(s) to the present petitioner and such being the position, the order dated February 20, 2024, as passed by the Executive Engineer (C), Building Department, Borough-I, Kolkata Municipal

Corporation in respect of Premises No.33A, Banamali Chatterjee Street, Kolkata – 700002, Ward No.005, Borough-I, may be treated as withdrawn.

On perusal of the entire materials as placed before us and after hearing learned advocates for the contending parties, we find that no reasonable opportunity has been given to the present petitioner to counter such spot inspection report(s), which is in complete violation of our order. However, in view of the stand taken by the alleged contemnors, we take a lenient view and close the contempt proceedings.

This Court directs the Executive Engineer (C), Building Department, Borough-I, Kolkata Municipal Corporation to conduct a fresh hearing in respect of the aforementioned premises on the basis of the materials as available before him within three weeks from the date of passing of this order, upon notice to all concerned.

(ARIJIT BANERJEE, J.)

(PARTHA SARATHI SEN, J.)