

WPO/892/2024

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SHRI KRISHNA ARJUN ADHIKARY.

-VERSUS-

KOLKATA MUNICIPAL CORPORATION
AND ORS.

BEFORE:
The Hon'ble JUSTICE KAUSIK CHANDA
Date : 12th September, 2024.

Appearance:

Mr. Saurabh Guhathakurata Adv.
Ms. Nilanjana Sarkar, Adv.
Mr. Abhratanu Sarkar, Adv.
.... for the petitioner.

Mr. Biswajit Mukherjee, Adv.
Mr. Swapan Kumar Debnath, Adv.
the KMC.

The Court:- It is the grievance of the petitioner that a demolition order in respect of his residential house at 44, Izazatullah Lane, Ward No. 89, Borough-X, Kolkata-700033 was issued by the Kolkata Municipal Corporation on November 28, 2023. Challenging the demolition order, the petitioner has preferred an appeal before the Kolkata Municipal Building Tribunal, which was registered as BT Appeal No. 16 of 2024.

The petitioner asserts that he has also filed a stay application in connection with the said appeal, but the appeal and the application filed by the petitioner could not be disposed of by the Tribunal.

He alleges that the Building Tribunal is not currently functioning and as such, he is not in a position to press his application for stay.

He further submits that the Corporation mutated the assessment record in respect of the said residential building long back in the year 2016 and since then he has been paying property tax in respect of the said building.

Learned Advocate for the Corporation, however, disputes the allegation of the writ petitioner. It has been submitted that the petitioner has been paying tax only in respect of the relevant land. He further submits that the Building Tribunal of the Corporation will resume its function very soon.

I am of the view that the petitioner should be given an opportunity to exhaust his remedy of appeal before the Tribunal. In that view of the matter, this writ petition is disposed of with the following directions:

An endeavour shall be made by the Tribunal to dispose of the appeal within a period of two months from the date of resumption of its function.

Operation of the demolition order dated November 28, 2023, is stayed for a period of two months from date or till the disposal of the appeal, whichever is earlier.

If the appeal is not disposed of within the stipulated time period, the petitioner will be at liberty to apply before the Building Tribunal for extension of the stay order.

The Tribunal shall decide the extension of stay in accordance with law without being influenced by the orders passed in this writ petition.

Needless to mention that in the event, the stay order is not extended by the Tribunal, the Corporation will be at liberty to proceed with the demolition work.

(KAUSIK CHANDA, J.)

dg.