

OD -1

ORDER SHEET

CC/122/2023
WITH APO/76/2022
IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (CONTEMPT)
ORIGINAL SIDE

15 NOORMAL LOHIA LANE TENANTS WELFARE ASSOCIATION AND ANR.

VS

SRI DHAVAL JAIN AND ANR.

BEFORE:

The Hon'ble JUSTICE ARIJIT BANERJEE

The Hon'ble JUSTICE RAI CHATTOPADHYAY

Date: 24th September, 2024.

Appearance:

Mr. Debnath Ghosh, Adv.

Mr. Sarosij Dasgupta, Adv.

Mr. Bimalendu Das, Adv.

..For the applicants

Mr. Alak Kr. Ghosh, Adv.

Mr. Swapan Kumar Debnath, Adv.

...For the K.M.C respondent

The Court: Affidavit of service filed in Court, be kept with the records.

The present petitioners had approached a learned Single Judge by filing WPO No. 2347 of 2022, with a grievance regarding a decision of the Kolkata Municipal Corporation (in short "K.M.C") declaring the concerned premises as a dilapidated/condemned building. The writ petition was disposed of by the learned Judge by an order dated July 20, 2022. The material portion of the order reads as follows;

“The landlords and the tenants both have relied upon separate reports from the Structural Engineers. The reports are contradictory to each other. As it appears from the documents produced before this Court and upon hearing the submissions made on behalf of the parties that the Kolkata Municipal Corporation has already issued notice under Section 412A(i) of the Act, accordingly, the Kolkata Municipal Corporation is directed to conclude the said proceeding strictly in accordance with aforesaid provision of law, after giving a reasonable opportunity of hearing to the owners as well as the tenants/occupiers or their representatives.

Learned Advocate representing the members of the petitioner No. 1 submits that the show cause notice under Section 412A(i) of the Act has not yet been served upon the occupiers of the said premises. A copy of the notice issued in favour of the landlords under Section 412A(i) has been handed over to the learned Advocate representing the petitioners in Court today. The members of the petitioner No. 1 will be at liberty to respond to the said notice.

The Kolkata Municipal Corporation shall take necessary steps to act strictly in accordance with law at the earliest to prevent any untoward incident.”

The present petitioners carried the said order in appeal by filing APO No.76/2022. This Bench disposed of the appeal by a judgment and order dated August 22, 2022. We did not interfere with the order under appeal. We merely clarified certain observations of the learned Single Judge.

Therefore, the order of the learned Single Judge stands and K.M.C has to conclude the proceedings under Section 412 of the K.M.C Act in terms of the directions of the learned Single Judge as clarified by this Bench.

Alleging that K.M.C has not granted a hearing to the petitioners herein who are occupiers of different portions of the building in question, this contempt application has been filed.

Today learned Advocates for K.M.C tell us that the order will definitely be complied with. Some time period may be fixed.

We, accordingly, direct the alleged contemnors to comply with the learned Single Judge's order as clarified by us, within 3 months from date after granting due opportunity of hearing to the present petitioners and any other concerned party. Sufficient notice of hearing should be given to the petitioners and other concerned parties and they will be entitled to rely on such documents as they may be advised, before the hearing officer. In other words, the proceedings must be completed by the end of this year.

Since we have not found any wilful violation of the concerned order on the part of the alleged contemnors, we close the present contempt proceedings.

Accordingly, CC/122/2023 stands disposed of.

(ARIJIT BANERJEE, J.)

(RAI CHATTOPADHYAY, J.)