

Saikat
Ct.No.30 D/L 40 17.01.2025

WPA 20091 of 2019

with

CAN/2/2024

and

CAN/3/2024

Sk. Nazrul Islam & Anr.

versus

Kolkata Municipal Corporation & Ors.

Mr. Abu Siddique Mallik, Adv.

...For the Petitioners

Mr. Subhrangsu Panda, Adv.

Ms. Haritri Roy, Adv.

...For the Private Respondent

Nos.9 to 16

Mr. Alok Mr. Ghosh, Adv.

Mr. Swapan Kr. Debnath, Adv.

...For the K.M.C.

Mr. Bipin Ghosh, Adv.

...For the State

Supplementary affidavit and Affidavit-of-service filed by the petitioner are taken on record.

The present writ application has been preferred praying for the following direction upon the private respondent Nos.9 to 11:-

“to prevent injury or loss of life to immediately vacate their vacant possession of Room No.1, 3 and 5 of Premises No.42, Kimber Street, P.S.-Beniapukur, Kolkata-700017 adjacent to the road side...”

In course of hearing, as directed by the court, the respondent No.1, **Kolkata Municipal Corporation**

has put up a board with a notice that premises in the present case is a dangerous property (Bipad Janak Bari). The said board has been put up after assessment of the condition of the building.

It appears from the materials on record and also the affidavits filed by the parties concerned that in spite of putting up such notice on the premises in this case, the Kolkata Municipal Corporation has not taken any step under sections 411, 412 and 412A of the Kolkata Municipal Corporation Act, 1980.

Learned counsel for the Kolkata Municipal Corporation has submitted that a plan has been sanctioned in favour of the petitioners for construction of a new building in place of the old structure.

Private respondents are also being represented.

Considering the aforesaid facts and circumstances of the case, **the writ petition is disposed of** with the direction that the respondent No.1, Kolkata Municipal Corporation shall act as per the provisions referred to above with proper notice to all the stakeholders and necessary steps shall be taken by all the persons concerned as per their stand in accordance with law before the corporation.

In case of an order of demolition, the petitioners herein shall give an undertaking on affidavit complying with the provision of clause 3 of section 412

of the Kolkata Municipal Corporation Act relating to the “reinstatement” of the tenants. Authority concerned will ensure that the said affidavit in respect of compliance of clause 3 of section 412 of Kolkata Municipal Corporation Act is time bound as required or else the tenants who are entitled to their possession as occupiers shall be prejudiced as they have a right not to be evicted without due process of law.

The tenants-respondents are at liberty to pray for proper accommodation and other connected reliefs before the appropriate authority of Kolkata Municipal Corporation and the petitioner shall consider their prayer on humanitarian ground.

With the aforesaid direction, the writ application is disposed of.

CAN/2/2024 and CAN/3/2024 also stand disposed of accordingly.

Urgent Photostat certified copy of this order, if applied for, be given to the parties, on priority basis, upon compliance of all necessary formalities.

There will be no order as to costs.

[Shampa Dutt (Paul), J.]