

04.07.2025
Sl. No.5
akd

W. P. A. 29585 of 2024

[Sujoy Saha & Ors. -Vs- The Kolkata Municipal Corporation &Ors.]

Mr. Anjan Bhattacharya
Mr. S. A. Jainal
Mr. Shahan Shah

... ... for the petitioners

Mr. Debjit Mukherjee
Ms. Susmita Chatterjee

... ... for the KMC

Mr. Arindam Chattopadhyay
Ms. Lipika Chatterjee

... ... for the State

1. The petitioners in the present writ petition are aggrieved by a demolition order issued by the respondent, Kolkata Municipal Corporation, in respect of Premises No. 49/1/A (also referred to as 49A), Surya Sen Street, P.O. & P.S. Amherst Street, Kolkata. The demolition has been ordered on the ground that the said building is dangerous.
2. The petitioners contend that they are longstanding tenants of the said premises. It is their case that the building is structurally sound and that the respondent-Corporation, allegedly at the instance of private respondent nos. 12 to 14, has declared the building to be dangerous. A signboard has been affixed in front of the premises stating that the building is dangerous, which, according to the petitioners, is being used by the private respondents as a pretext to forcibly evict the tenants without following due process of law.

3. The respondent, Kolkata Municipal Corporation, has filed an affidavit-in-opposition stating that a proper inspection was conducted, and a detailed note sheet was prepared prior to the issuance of a notice under Section 411 of the Kolkata Municipal Corporation Act, 1980. A notice under Section 411(1) of the said Act was served upon the owner of the building on 26.09.2024, directing him to demolish the dilapidated portion of the building and to secure the remaining part. However, as no steps were taken by the persons responsible, the respondent-Corporation erected a signboard as a precautionary measure to warn the general public.
4. This Court has heard the submissions advanced by the learned Advocates for the respective parties and has perused the materials placed on record.
5. The photographs annexed to the affidavit-in-opposition reveal the deteriorated and dilapidated condition of the structure. The respondent-Corporation has exercised its powers under the Kolkata Municipal Corporation Act, 1980, in declaring the building as dangerous, and has taken prudent steps by placing a warning sign for public safety.
6. The petitioners, being tenants of the said premises, have expressed genuine apprehension that they may be rendered homeless due to the proposed demolition.
7. The Kolkata Municipal Corporation Act, 1980, specifically provides for the protection of tenants in such circumstances. It is the statutory obligation of the owner to

provide suitable alternative accommodation to the affected tenants. The petitioners have submitted multiple representations before the respondent-Corporation seeking such relief.

8. Accordingly, this Court directs the Executive Engineer (Building), Ward No. 37, Borough – V, Kolkata Municipal Corporation (respondent no. 7), to consider the said representations submitted by the petitioners, and to pass a reasoned order in accordance with law, within a period of two weeks from the date of communication of this order. The petitioners as well as the owner of the premises shall be afforded an opportunity of personal hearing prior to the passing of such order.
9. Upon such consideration, if the petitioners are found to be eligible, the respondent-Corporation shall extend to them the benefits under Section 412 of the Kolkata Municipal Corporation Act, 1980, strictly in accordance with law.
10. Although several civil suits are pending before the competent civil court, the orders passed in those cases shall be duly considered by the authorities of the Kolkata Municipal Corporation while adjudicating the applicability of Section 412 of the Act to the petitioners.
11. With the aforesaid directions, the present writ petition stands disposed of.
12. Interim orders, if any, shall stand vacated.
13. Since no affidavits have been filed by the respondents, the allegations made in the writ petition shall not be deemed to have been admitted.

14. There shall be no order as to costs.
15. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Gaurang Kanth, J.)