

APO/17/2025
With
WPO/909/2024
IA No.GA/1/2025

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

SMT. NEELANJANA ROY

-Versus-

THE KOLKTA MUNICIPAL
CORPORATION AND ORS.

Appearance:

Mr. Alak Kumar Ghosh, Adv.
Mr. Shounak Mukherjee, Adv.
Mr. Sanjay Chgattopadhyay, Adv.
..for the appellant.

Mr. Gurudas Mitra, Adv.
Ms. Manisha Nath, Adv.
Ms. Dipanwita Ganguly, Adv.
..for the KMC.

Mr. Gautam Chakraborty, Adv.
Mr. Arindam Paul, Adv.
..for the respondent no.6.

BEFORE :
THE HON'BLE JUSTICE DEBANGSU BASAK
And
THE HON'BLE JUSTICE SMITA DAS DE

Date : 20th March, 2025.

The Court : Appeal is directed against an order dated February 5, 2025 passed in WPO/909/2024 by which the writ petition was disposed of by the learned Single Judge after finding that, Kolkata Municipal Corporation (KMC) already initiated demolition proceedings under Section 400(1) of the Kolkata Municipal Corporation Act, 1980.

Learned advocate appearing for the appellant submits that, although the private respondent claims that there is a reconstruction sanctioned plan dated January 31, 2024 since the private respondent demolished the entire structure, the validity of the reconstruction sanctioned plan stands negated. He submits that, on the garb of reconstruction sanctioned plan, the existing structure cannot be demolished and a fresh structure cannot be erected. He submits that, the private respondent was merrily continuing to make a new construction after demolishing the old structure.

Kolkata Municipal Corporation and the private respondent are represented.

On behalf of KMC, a report as called for by the order dated March 6, 2025, is filed in Court today. The report is accompanied with a pendrive containing the video recording of the visit of the concerned Executive Engineer at the locale pursuant to the order dated March 6, 2025. The report along with the pendrive are taken on record.

The report claims that the existing structure was demolished which violated the condition of the reconstruction sanctioned plan dated January 31, 2024 and, therefore, KMC issued a stop work notice under Section 401 of the Act of 1980 on September 23, 2024. As the construction work was continuing despite the stop work notice, a First Information Report (FIR) was lodged against the person responsible under Section 401(A) of the Act, 1980 on September 25, 2024. KMC authorities are proceeding under Section 400 of the Act, 1980. The Special Officer (Building) is hearing a proceeding under Section 400(1) of the Act, 1980 in respect of the premises concerned.

Learned advocate appearing for the private respondent disputes the contention of the appellant and KMC that, any construction was made in violation of the reconstruction sanctioned plan dated January 31, 2024.

Issue as to whether or not the private respondent violated any terms and conditions of the reconstruction sanctioned plan dated January 31, 2024 is pending consideration before the Special Officer (Building) in a proceeding under Section 400(1) of the Act, 1980. It requires decision by the Special Officer (Building).

Learned Single Judge also noticed that appropriate proceedings are pending before the KMC authority with regard to the construction at the locale. Learned Single Judge, therefore, disposed of the writ petition in such a factual matrix.

The same factual matrix continues in the present appeal. Additional fact is that there is a video photography of the present position of the construction. There is also a subsisting notice of stop work as against the private respondent.

Special Officer (Building) will proceed to dispose of the proceedings under Section 400(1) of the Act, 1980 in accordance with law after affording a reasonable opportunity of hearing to the private parties before us. Special Officer (Building) is at liberty to hear such other parties and consult such documents as it deem appropriate. It is expected that the proceedings under Section 400(1) of the Act, 1980 is concluded as expeditiously as possible and preferably within six weeks from date.

No doubt, Special Officer (Building) will pass a reasoned order which will be communicated to the parties forthwith thereafter.

We clarify, we did not pronounce on the legality and validity of the subsisting construction. None of our observations will prejudice any of the private parties in the proceedings before the Special Officer (Building) in any manner whatsoever.

APO/17/2025 along with the connected application are disposed of without any order as to costs.

(DEBANGSU BASAK, J.)

(SMITA DAS DE, J.)

A/s.