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IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (CONTEMPT)
ORIGINAL SIDE

CC/56/2023
WITH
APOT/84/2023

MD EHTESHAM UDDIN
VS
DHAVAL JAIN, THE KOLKATA MUNICIPAL COMMISSIONER AND ORS.

BEFORE:

The Hon'ble JUSTICE ARIJIT BANERJEE
The Hon'ble JUSTICE PRASENJIT BISWAS
Date : 7th March, 2025.

Appearance:
Mr. Arif Ali, Adv.
Mr. Sarban Bhattacharjee, Adv.
...for the petitioner.

Mr. Alak Kumar Ghosh, Adv.
Ms. Piyali Sengupta, Adv.
...for the alleged contemnors.

The Court: This contempt application was filed alleging wilful violation of an order dated April 5, 2023, whereby this Bench had disposed of APOT/84/2023. The operative portion of the said order reads as follows:

“Having heard learned Counsel for the parties we are of the opinion that the following order shall serve the ends of justice :

- (i) *The Municipal Building Tribunal is directed to decide the stay application of the appellants before us which they have filed in connection with MBT Appeal No.82 of 2023 by the end of April, 2023, after affording opportunity of hearing to all concerned parties including the appellants herein and the writ petitioner. Sufficient notice of hearing will be given to the parties.*

- (ii) *Kolkata Municipal Corporation is directed to ensure that the original records of the case are available before the Municipal Building Tribunal by April 13, 2023, so that the Tribunal can issue notice of hearing at an early date and decide the stay application filed in connection with MAT 82 of 2023 by the end of April, 2023.*
- (iii) *Till the decision of the Municipal Building Tribunal on the stay application filed in connection with MAT No.82 of 2023 is available, no action shall be taken for demolition of the alleged unauthorised construction in question or any portion thereof.*
- (iv) *The concerned Deputy Commissioner of Police shall ensure through his subordinate officers that no further construction is made at the premises in question.*
- (v) *Needless to say, if any party obtains sanction from the Kolkata Municipal Corporation for making construction at the premises in question, the same may be permitted. However, in any event no construction be made till the end of April, 2023.”*

Learned Advocate for the petitioner says that the Municipal Building Tribunal (MBT, in short) has dismissed the appeal preferred by the persons responsible for the illegal construction. Therefore, the order restraining the Kolkata Municipal Corporation (KMC, in short) from taking any action for demolition of the unauthorised construction in question or any portion thereof, comes to an end.

Today, there is no such restraint order and the KMC should forthwith demolish the illegal construction in its entirety.

Mr. Ghosh, learned Senior Counsel appearing for the alleged contemnors says that even prior to the order dated April 5, 2023 was passed disposing of the appeal, KMC had started implementing the order of the Special Officer (Building), for demolition of the unauthorised construction. However, in view of the order dated April 5, 2023, KMC stayed its hands. After the dismissal of the appeal by the Tribunal, KMC has again taken action in terms of the order of the Special Officer (Building).

Learned Advocate for the petitioner says that the order dated April 5, 2023 also directed that no further construction be made at the premises in question. However, in violation of such order, the persons responsible raised further unauthorised construction.

Needless to say that KMC shall act in accordance with law in ensuring that no unauthorised construction remains at the said premises, subject to interdiction by any competent forum.

The contempt application being CC/56/2023 is thus disposed of.

(ARIJIT BANERJEE, J)

(PRASENJIT BISWAS, J.)