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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/644/2025
SMT. NEELANJANA ROY
VS
KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE
HON'BLE JUSTICE GAURANG KANTH
Date: SEPTEMBER 18, 2025.

Appearance :
Mr. Alok Kumar Ghosh, Adv.
Ms. Arunima Lala, Adv.
Mr. Atish Ghosh, Adv.
Mr. Arindam Chandra, Adv.
Ms. Neha Gupta, Adv.
...for petitioner
Mr. Biswajit Mukherjee, Adv.
Ms. Manisha Nath, Adv.
....for K.M.C.
Mr. Gautam Chakraborty, Adv.
Mr. Arindam Paul, Adv.
...for defendant 7.
Mr. Manoj Malhotra, Adv.
Mr. Sabyasachi Mondal, Adv.
...for respondent 6.

The Court :- The petitioner has preferred this writ petition challenging the order dated 24th April, 2025 passed by the Special Officer (Building) in demolition case no. 37-D/V/24-25, as also the sanctioned construction plan dated 31.01.2024 in respect of premises No. 68/1, College Street, Calcutta.

Learned Counsel for petitioner Mr. Ghosh submits that petitioner is having shareholding right over the aforementioned premises whereas the respondent No. 7 is owner and respondent No.

8 is the tenant of the premises mentioned hereinabove. The respondent No. 8 being the family company of respondent no. 7 is carrying on its printing business from the said premises.

The petitioner all of a sudden noticed certain illegal and unauthorised construction was being carried out at premises no. 68/1, College Street, Calcutta and accordingly lodged complaints before respondent Corporation. Since no action was taken, the petitioner approached this Court by filing writ petition being WPO/909/2024 and vide order dated 5.2.2025, the said writ petition was disposed of based on a report filed by the Corporation which indicated that the demolition proceedings under Section 400(1) of the KMC Act, had already been initiated. Aggrieved thereby, the petitioner preferred an intra-Court appeal being APO No. 17/2025. The Hon'ble Division Bench vide order dated 20.3.2025 directed the Special Officer (Building) to conclude the demolition proceedings within six weeks by passing a speaking order after granting an opportunity of hearing to the petitioner as well as private respondent while leaving it open to the authority to hear other interested parties and to examine the documents deemed fit. Since, the said direction was not complied with, the petitioner initiated the contempt proceedings being CC/91/2025. In the Course of this proceedings it transpired that Special Officer (Building) had already passed the final order dated 24.03.2025 in the demolition case, but without affording

an opportunity of hearing to the petitioner. Vide order dated 11.07.2025, this Court dropped the said contempt petition clarifying that the legality, validity and sufficiency of the order dated 24th April, 2025 are kept open to be adjudicated and canvassed before the appropriate forum. The petitioner has now filed the present writ petition challenging the order dated 24th April, 2025 as well as the validity of the sanctioned reconstruction order dated 31.01.2025.

At the very outset, this Court put to the petitioner the question as to why, inasmuch as the impugned order is admittedly appealable, the petitioner ought not to be relegated to the remedy of approaching the Municipal Building Tribunal.

Learned Counsel for the petitioner, Mr. Ghosh, submits that although the impugned order is an appealable one, the same ought to be entertained by this Court inasmuch as there has been a violation of the principles of natural justice, and further, the reliefs sought by the petitioner cannot be effectively adjudicated upon by the Municipal Tribunal. In support of this contention, Mr. Ghosh argues that the order dated 24th April, 2025 has been passed in breach of the specific directions issued by this Court in APOT/17/2025, wherein a Division Bench had categorically directed that the petitioner must be afforded an opportunity of hearing before the Special Officer (Building) prior to the passing of a reasoned order. According to him, no such opportunity of hearing was ever granted to the petitioner.

However, this Court finds that the said issue is no longer *res integra*. The petitioner had already raised this contention in the contempt petition filed on 09.01.2025. In those proceedings, this Court had categorically observed that although no opportunity of hearing was extended to the petitioner, the order dated 24th April, 2025 passed by the Special Officer (Building) had been duly taken note of. The Court, upon recording that the said order substantially complied with the earlier directions, proceeded to close the contempt proceedings. It was further observed in the contempt proceedings that insofar as the legality, validity, and sufficiency of the order of the Special Officer (Building) are concerned, the same would be a matter to be adjudicated before the appropriate forum.

Learned Counsel for the respondent Municipality, Mr. Mukherjee, submits that the present writ petition is not maintainable in view of the availability of an efficacious alternative remedy. He contends that the appropriate forum for redressal of the grievance raised by the petitioner is the Municipal Building Tribunal, inasmuch as the impugned order is admittedly an appealable one. According to him, the statutory scheme provides a complete machinery for ventilation of such grievances, and therefore, this Court ought not to exercise its writ jurisdiction under Article 226 of the Constitution when an equally efficacious statutory appellate remedy is available to the petitioner. It is thus submitted that the petitioner should be relegated to the remedy before the Municipal Building Tribunal.

Having considered the submissions advanced by learned Counsel for the parties and upon perusal of the materials placed on record, this Court is of the considered view that the present writ petition is not maintainable. The order dated 24th April, 2025 is an appealable order, and the petitioner has an efficacious alternative remedy before the Municipal Building Tribunal. The grievance of the petitioner with regard to the alleged violation of the principles of natural justice is no longer *res integra*, inasmuch as this Court, while dealing with Contempt Petition No. 91 of 2025, had already observed that the legality, validity, and sufficiency of the order passed by the Special Officer (Building) are matters to be agitated before the appropriate forum. In the opinion of this Court, the appropriate forum in this regard would be the Municipal Building Tribunal, before which an appeal from the said order lies.

This Court, therefore, finds that an efficacious alternative remedy exists by way of an appeal before the Municipal Building Tribunal. Consequently, this Court is not inclined to exercise its discretionary jurisdiction under Article 226 of the Constitution of India. Accordingly, the writ petition stands dismissed, with liberty to the petitioner to avail the statutory remedies as may be available in law.

(GAURANG KANTH, J.)

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