

OD - 16 & 17

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction

ORIGINAL SIDE

WPO(P)/1/2024
IA NO: GA/2/2024, GA/3/2024
SK MAHBUB HOSSAIN
VS
THE STATE OF WEST BENGAL AND ORS

CC/99/2024
SK MAHBUB HOSSAIN
VS
MANOJ KUMAR VERMA,
COMMISSIONER OF POLICE KOLKATA AND ORS

BEFORE :
THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 3rd January, 2025

Appearance :
Mr. Mainak Bose, Sr. Adv.
Mr. Ratul Das, Adv.
Ms. Anjusri Mukherjee, Adv.
. . .for the petitioner.

Mr. Amitesh Banerjee, Sr. Adv.
Ms. Ipsita Banerjee, Adv.
Mr. Debangshu Dinda, Adv.
...for the State.

Mr. Alak Kumar Ghosh, Adv.
Mr. Arijit Dey, Adv.
..for KMC.

Mr. Abu Siddiqui Mallik, Adv.
...for respondent nos.14 & 15.

Mr. Sukanta Chakraborty, Adv.
..for respondent no.2.

Mr. Somnath Bose, Adv.
...for CESC Limited.

The Court : This writ petition was filed as Public Interest
Litigation pointing out very serious issue wherein multi-storied

unauthorised constructions have been put up and the developers have either sold or let out those illegally constructed flats and several persons were in occupation.

After elaborately hearing the matter on various dates, this Court passed an order on 3rd May, 2024 by which direction was issued for eviction of the unauthorised occupants of the illegal buildings and for demolition. In the said order, a direction was issued to the Kolkata Police to form a Special Task Force to enable the Kolkata Municipal Corporation (KMC) to carry out their statutory duties and effectively demolish the unauthorised structures. We are informed by the learned senior Advocate for the State that a Special Task Force has been constituted. As against the order passed by this Court on 3rd May, 2024 in WPO(P)/1/2024, a Special Leave Petition (Civil Diary) No.2380 of 2024 was filed by a few occupants of the illegal building and an order of status quo was passed by the Hon'ble Supreme Court on 3rd June, 2024. In respect of another building, the matter went before the Hon'ble Division Bench in an intra-court appeal in MAT No.1152 of 2023 in which a direction was issued that till the Municipal Building Tribunal is constituted, no coercive action shall be taken in respect of the building in question. As against the said order passed by the Hon'ble Division Bench dated 22nd August, 2023 in MAT/1152/2023, the custodian of enemy property of India filed a Special Leave Petition before the

Hon'ble Supreme Court in Special Leave to Appeal (C) No.11834/2024. The said Special Leave Petition was heard along with Special Leave Petition(C) No.12834 of 2024 and final orders were passed by the Hon'ble Supreme Court on 17th September, 2024. At this juncture, it would be beneficial to extract paragraph 8 of the said order passed by the Hon'ble Supreme Court.

"8. All these matters are, accordingly, disposed of leaving it open to the parties to approach the High Court, if so required. It is clarified that this Court has not granted any interim stay or a direction either to maintain status quo or to stop the demolition drive. In this regard, the directions issued by the High Court from time to time, shall be binding on the parties and any clarification, if so required, may be obtained from the High Court only."

In terms of the above order it is clear that there is no order of interim stay or a direction either to maintain status quo or to stop the demolition drive and the directions issued by this Court from time to time were held to be binding on the parties and any clarification, if so required, may be obtained from the High Court only. Thus, the order and direction issued by this Court on 3rd May, 2024 in WPO(P)/1/2024 has to be complied with in its letter and spirit.

Accordingly, we direct the officials of the KMC to co-ordinate with the officials of the Kolkata Police/Special Task Force and draw up a plan for eviction of the unauthorised occupants and for simultaneous demolition of the illegal

construction. The programme shall be drawn up in consultation with both the parties and effective steps be taken in this regard.

We are further informed that the electricity connection has been given to those unauthorised constructions and there is also in certain cases water connection. The KMC shall inform the CESC Limited, the list of the buildings which are illegally constructed and on receipt of the details, CESC Limited shall immediately take steps for disconnection of the electricity supply to the said buildings or units thereof. Simultaneously, the KMC shall also disconnect the water supply to those illegally constructed buildings. In order to facilitate CESC Limited to disconnect the electricity connection and the KMC to disconnect the water connection, necessary police assistance be rendered to the authorities.

Since this Court has been directed to monitor the entire matter, an action taken report shall be filed by the KMC, the Kolkata Police and the CESC Limited.

List the matter on 28th February, 2025.

Re : CC/99/2024

This contempt application has been filed alleging disobedience of the order in WPO(P)/1/2024 in respect of one premises bearing no.147/H/25, Keshab Chandra Sen Street, P.S. - Amherst Street, Kolkata - 700 009.

It is submitted by the learned advocate for the petitioner that when directions were issued in the writ petition in respect of other properties there was no construction in this property and as on date there is a multi-storied construction put up which, according to the petitioner, is in violation of the directions issued by this Court in its order dated 23rd February, 2024.

Since comprehensive direction has already been issued in the writ petition, we direct the Kolkata Municipal Corporation to take steps for demolition of the building in the premises no. 147/H/25, Keshab Chandra Sen Street, P.S. - Amherst Street, Kolkata - 700 009 and the CESC to disconnect the electricity connection and also the water supply, if already given. Steps taken in this regard shall also be submitted in the action taken report as directed in the preceding paragraph.

With the above, the contempt application stands disposed of.

(T.S. SIVAGNANAM)
(CHIEF JUSTICE)

(HIRANMAY BHATTACHARYYA, J.)

