

OD-8

ORDER SHEET
WPO No.1260 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SRI DEBASHIS AUDDY ALIAS DEBASIS AUDDY
VERSUS
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date:14th June, 2023.

Appearance:

Mr. Debjyoti Basu, Adv.
Mr. Parashar Baidya, Adv.
....for the Petitioner.

Ms. Sanjukta Ray, Adv.
...for LIC.

Mr. Fazlul Haque, Adv.
Ms. Manisha Nath, Adv.
...for KMC.

The Court:- Petitioners are aggrieved by the act of the Kolkata Municipal Corporation in taking steps for demolition of the subject structure contrary to the direction passed by this Court in the earlier writ petition being WPO No. 2215 of 2022 (Sri Debashis Auddy alias Debasis Auddy Vs. The Kolkata Municipal Corporation & Ors.).

The building in question has been identified as dilapidated and insecure one. The Corporation has issued notice under Section 411(1) of the Kolkata Municipal Corporation Act, 1980.

The Court in the earlier writ petition directed the owner of the said premises i.e. Life Insurance Corporation of India to prepare the proposed reconstruction plan and submit the same before the Kolkata Municipal Corporation.

The Municipal Commissioner of the Kolkata Municipal Corporation was directed to take a decision in the matter after affording reasonable opportunity of hearing to all the necessary parties including the tenants and occupiers of the subject premises.

Life Insurance Corporation of India is yet to submit the reconstruction plan proposal. On account of the delay on the part of the owner to submit the aforesaid plan the Corporation is taking steps to demolish the dangerous portion of the building which may collapse and cause accident.

The tenants and occupiers of the subject premises are aggrieved by the same. It has been submitted that in the event the structure is demolished, then the right of the tenants/occupiers may be extinguished.

Learned advocate representing the owner submits that there are several occupiers who are illegally occupying portions of the subject structure. The owner does not recognise many of the occupiers as tenants of the subject structure.

It is made clear that in the present writ petition consideration will be restricted only with regard to the construction/demolition of the subject structure and the private rights of the parties including tenancy etc. will not be adjudicated by the Court. As regards declaration of private rights, it will be open for the parties to approach the appropriate forum for relief.

Learned advocate representing the Kolkata Municipal Corporation has submitted that as monsoon season is approaching, the Corporation is taking steps only for the purpose of netting the portions of the structure which are hanging in a precarious condition and may fall down on account of heavy rain.

It will be open for the Corporation to proceed with the work of netting but the Corporation is restrained from carrying out any demolition work in respect of the subject structure without obtaining any leave from this Court.

Learned advocate appearing on behalf of the Life Insurance Corporation of India has submitted that the reconstruction plan proposal is ready and is pending approval before the higher authority.

Life Insurance Corporation of India is directed to submit the reconstruction plan proposal before the Kolkata Municipal Corporation positively by four weeks from date.

The Municipal Commissioner of the Kolkata Municipal Corporation or his delegate on receipt of the reconstruction plan proposal shall take a decision in the matter after affording reasonable opportunity of hearing to all the necessary parties including the tenants and the occupiers of the said premises.

The matter stands adjourned till 12.07.2023.

Report shall be filed by the owner, Life Insurance Corporation of India and the Kolkata Municipal Corporation on the adjourned date.

Report filed by the Sub-Assistant Engineer (Civil), Assistant Engineer (Civil), Executive Engineer (Civil), Building Department, Borough-VI, Kolkata Municipal Corporation signed on 13.06.2023 along with two photographs be retained with the records.

(AMRITA SINHA, J.)