

30.11.2023  
Item no.1.  
Court No.6.  
AB

**M.A.T. 2307 of 2023**  
**With**  
**IA CAN 1 of 2023**

**Ekbaluddin Ahmed & Others**  
**Vs**  
**The State of West Bengal & Others**

Mr. Subhojit Seal .....for the Appellants.

Mr. Subhrangsu Panda,  
Ms. Ina Bhattacharya .....for the KMC.

Md. Salahuddin,  
Md. Ahsanuzzaman,  
Md. Raziuddin .....for the Board of Wakf.

Mr. Saikat Chatterjee,  
Ms. Salma Sultana Shah,  
Mr. Sani Hossain .....for the Writ Petitioner/  
Respondent No.7.

An order dated November 23, 2023, passed on the writ petition of the respondent no.7 herein, being WPA 7718 of 2023, is under challenge in this appeal, at the instance of the respondent nos.7 to 11 in the writ petition.

The writ petitioner approached the learned Single Judge alleging unauthorized construction at the instance of the appellants herein. The learned Judge observed that since the Corporation has come up with the decision that the impugned construction is without sanction, the structure is required to be demolished. The learned Judge directed Kolkata Municipal Corporation (in short "KMC") and the concerned

Executive Engineer to demolish the illegal structure within ten days from November 24, 2023, i.e., by December 4, 2023. The learned Judge directed filing of a demolition report on December 7, 2023.

Being aggrieved, the respondent nos.7 to 11 in the writ petition have come up by way of this appeal.

We have heard learned Counsel for the parties. Learned Advocate for KMC says that proceedings under Sections 400(1) and 400(16) of KMC Act, 1980, have been initiated in respect of the impugned construction against the persons responsible one of whom is the appellant no.3 herein.

Since a demolition case has been initiated by KMC, the same should be taken to its logical conclusion observing the principles of natural justice. All concerned parties including the appellants herein and the respondent no.7/writ petitioner shall be given an opportunity of hearing by the concerned Special Officer (Building) before a final order is passed. The concerned parties will have full opportunity of placing their respective cases before the Special Officer (Building). Let the proceedings before the Special Officer (Building) be concluded at the earliest and in any event within six weeks from the date of communication of this order by the appellants and/or the writ petitioner to the Special Officer (Building). Needless to say, an order will be passed in accordance with law and the applicable Rules and Regulations and

it will be a reasoned order. Only after final order is passed by the Special Officer (Building), any coercive step may be taken by KMC in respect of the impugned construction, subject of-course to any right of statutory appeal that the appellants may have.

The appellants are restrained whether by themselves or through servants or agents from raising any further construction at the site in question or from removing the construction already made till the final order is passed by the Special Officer (Building).

The appeal and the connected application are disposed of. The order under appeal is set aside.

Since no affidavits have been called for, the allegations in the stay petition are deemed not to be admitted by the respondents.

Learned Advocate for the writ petitioner says that no useful purpose will be served by keeping the writ petition pending. He is right.

The writ petition being WPA 7718 of 2023 is treated as on day's list and is disposed of.

Since the writ petition stands disposed of, there would be no further question of filing any demolition report before the learned Single Judge.

Since no affidavit was called for by the learned Judge in connection with the writ petition, the allegations made in the writ petition are deemed not to be admitted by the respondents in the writ petition.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

**(Arijit Banerjee, J.)**

**(M. V. Muralidaran, J.)**