

Item No.14

In the High Court At Calcutta  
Constitutional Writ Jurisdiction  
Appellate Side

22.12.2023  
Ct-24

WPA 28706 of 2023  
Messers. Diagnostics & Anr.

v.

The Kolkata Municipal Corporation & Ors.

Mr. Surajit Nath Mitra, Ld. Sr. Adv.  
Mr. Biswaroop Bhattacharya  
Mr. Rajarshi Dutta  
Mr. Shayak Mitra  
Ms. Anuradha Poddar  
... for the petitioners.

Mr. Anand Farmania  
Mr. Dipankar Ghosh  
Ms. Dipanwita Ganguly  
... for KMC.

Learned advocate representing the Corporation has produced written instruction from the Assistant Engineer(C)/Building and Executive Engineer(C)/Building, Borough-VIII signed on December 21, 2023 mentioning that the premises no. 190A, Rash Behari Avenue was inspected and being found in a dilapidated and dangerous condition, caution board was affixed.

The department initiated programme to execute the demolition work of the most vulnerable part of the structure under Section 411(4) of the Kolkata Municipal Corporation Act, 1980 approved by the D.G (Building) dated December 12, 2023.

The demolition programme was scheduled on December 21, 2023. Notice under Sections 544 and 546 of the Act was also issued. The demolition programme has been postponed upon the direction of the higher

authority. However, some of the occupants have requested to consider the demolition/repairing to be done from their own end. The department intends to keep vigil over the entire property and proceed accordingly to avoid any untoward circumstance. The notice issued by persons claiming to be the bona fide tenants/occupiers of the subject property has also been annexed with the instruction forwarded by the department.

Learned counsel representing the petitioners submits that the inspection, as claimed, may have been caused without a proper notice to the petitioners. The petitioners are running diagnostic center at the said premises for a considerable period of time.

From the instruction forwarded by the engineers of the Corporation it appears that the demolition programme has been kept on hold for the time being.

In such circumstances, the concerned officer of the building department, Borough-VII is directed to cause fresh spot inspection upon notice to all the necessary parties to ascertain the structural health of the subject structure. Notice of spot inspection and hearing shall be served upon the landlord/private respondent herein.

If it appears that repairing/renovation work is required to be conducted, then the Corporation shall intimate the parties the steps that are required to be taken for conducting the repairing/renovation work.

If any other remedial measure is required to be taken, the same shall also be intimated by the Corporation to all the necessary parties.

As the Corporation has themselves decided to defer the demolition programme for the time being, accordingly, the impugned notice dated December 16, 2023 loses its force and the same is, accordingly, set aside.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

SH

**(Amrita Sinha, J.)**