

Court No. 24

15.02.2021

(Item No. 25)

(AB)

W.P.A 129 of 2021

Sri Sankar Das

vs

Kolkata Municipal Corporation & Ors.

Mr. Kushal Chatterjee

Mr. Iftekar Munshi

...for the Petitioner

Mr. Samrat Choudhury

Mr. Ahsan Ahmed

..... For respondent No. 5

Mr. Ranajit Chatterjee

Mr. Mihir Kundu

For the Kolkata Municipal Corporation

Affidavit of service filed on behalf of the petitioner is taken on record.

The petitioner alleges illegal and unauthorized construction being carried on in his adjacent premises being No. B/48/H/27, Pottery Road, Kolkata 700 015. An objection was made by the petitioner before the Executive Engineer, Building Department of the Kolkata Municipal Corporation on 26th November, 2020. The petitioner alleges that the representation has not been considered by the respondent authority till date.

The learned advocate for the Kolkata Municipal Corporation submits, upon instruction, that on receipt of the complaint made by the petitioner an inspection was conducted at the site and it was revealed that construction has been made in deviation of the sanction plan. A stop work notice was issued under Section 401 of the Kolkata Municipal

Corporation in favour of the private respondent on 4th December, 2020.

The learned advocate appearing on behalf of the private respondent submits that they are making construction in accordance with the plan sanctioned by the Municipality. A stop work notice was issued by the Municipality and on receipt of the stop work notice the private respondent stopped all further construction. The private respondent denies that any construction was made after the issuance of the stop work notice.

As it appears that the Kolkata Municipal Corporation has already taken steps pursuant to the representation made by the petitioner and have issued a stop work notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 accordingly, it will be appropriate to direct the Kolkata Municipal Corporation to take necessary consequential steps pursuant to the said notice issued by the corporation.

In view of the above, the instant writ petition is disposed of by directing the Kolkata Municipal Corporation to take necessary steps for completion of the proceeding initiated by them in response to the complaint lodged by the petitioner, strictly in accordance with law, at the earliest, but positively within a period of six months from the date of communication of a copy of this order.

Since it has been submitted by the petitioner that the private respondents are continuing with the unauthorized construction despite the notice of stop work issued under Section 401(1) of the Act the Corporation shall be free to take steps pursuant to the provisions of Section 400(8) of the Act, including demolition of the unauthorized construction.

The petitioner is directed to forward a copy of the representation made on 26.11.2020 to the aforesaid respondent at the time of communicating the order of the Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of usual legal formalities.

(Amrita Sinha, J.)