

27.01.2021
SL No.9
Court No.24
(P.M.)

WPA 260 of 2021

Dr. Dharmendra Sharma
Vs.
The Kolkata Municipal Corporation & Ors.

Mr. S. E. Huda,
Mr. Sayan Ray,
Mr. Samrat Choudhury,
Mr. Harish Kumar Singh
... for the petitioner
Mr. Ranajit Chatterjee,
Mr. Subhrangshu Panda
... for Kolkata Municipal Corporation.

Mr. Amitesh Banerjee
Ms. Ipsita Banerjee
..... for the State.

Affidavit of service filed in Court is kept with the record.

The petitioner is aggrieved with the stop work notices issued under Section 401 of the Kolkata Municipal Corporation Act, 1980 on 5th November, 2019 and 16th December, 2020.

The notices mention that on inspection of the site, some construction work was observed at the side open space in spite of the stop work order.

It appears from records that a stop work notice was issued to the petitioner on 5th November, 2019 wherein it was specifically mentioned that unauthorized construction has been done in the front as well as side open space area by providing RCC Slab, Column etc.

The petitioner relies upon photocopy of the inspection book of the Corporation wherein it has been mentioned that the open space is now with construction.

According to the petitioner, the same implies that the construction which was made in the open space has been regularized.

The petitioner submits that presently he is not making any construction in the side space but he is only carrying on repairs in the interior of the shop room.

The petitioner prays for a direction upon the Kolkata Municipal Corporation to permit him to carry on the repairs in the interior portion of his commercial premises at P- 508 Keyatala Road, Kolkata – 700029.

The learned advocate appearing on behalf of the Kolkata Municipal Corporation submits upon instruction that there has been unauthorized construction in the premises in question by covering the front as well as side open space by constructing RCC with column and slab at the ground floor along with covering in the first floor roof (front as well as side open space) by GI Shed.

It has been submitted that stop work notices have been issued and demolition sketch plan has also been prepared and steps are being taken by the Corporation for demolition of the unauthorized construction. Proposal has already been initiated for taking steps under Section 400 of the Kolkata Municipal Corporation Act.

The learned advocate appearing on behalf of the State respondent submits, upon instruction, that the officers of the police station visited the site and has directed the persons responsible to stop the unauthorized construction that was being carried on in the open space.

Upon hearing the submissions made on behalf of all the parties and upon perusal of the materials on record it appears that there has been illegal and unauthorized construction in the premises in question. The same is reflected in the inspection book that is maintained by the Kolkata Municipal Corporation.

The Corporation officers have visited the site on more than one occasion and have noticed that unauthorized construction has been made in the front and side open space of the ground floor as well as the open space in the roof of the first floor.

It appears that no sanction was taken from the Kolkata Municipal Corporation prior to carrying out the aforesaid construction. It further appears that unauthorized construction is being carried on by the petitioner in the garb of making repairs in the premises in question.

Steps have already been initiated from the Kolkata Municipal Corporation in accordance with the provisions of Section 400 of the Kolkata Municipal Corporation Act, 1980. The prayer of the petitioner, at this stage, for making repairs in the interior of the premises cannot be allowed.

The writ petition being No. WPA 260 of 2021 fails and is hereby dismissed.

The instruction given by the Kolkata Municipal Corporation through their learned advocate is retained with the record.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)