

20.07.2021
Court No. 19
Item no.13
CP

WPA 11166 of 2021

Shruti Mullick
Vs.
Kolkata Municipal Corporation & ors.

(via video conference)

Mr. Shovan Ghosh

....for the petitioner.

Mr. Achintya Banerjee
Mr. Swapan Kr. Debnath

....for the KMC respondents.

Mr. Malay Kumar Singh
Mr. Subrata Ghosh

....for the State.

The petitioner alleges inaction on the part of the Kolkata Municipal Corporation in disposing of the complaint lodged by the petitioner alleging unauthorized construction of a shop room in front of the premises of the petitioner.

It is the contention of the petitioner that the petitioner was out of Kolkata and during this period two persons, namely, Soumen Mondal and Utpal Mondal constructed the aforementioned commercial shop and the same is being operated under the name and style of M/s. Mritunjoy Pharmacy.

The Kolkata Municipal Corporation authorities inspected the premises pursuant to the complaint lodged by the petitioner and from the report it appears that there exists a single storied structure. The structure, however, was not very recent. Accordingly, the Kolkata Municipal Corporation issued a notice under Section 400(1) of the Municipal Corporation Act, 1980 to demolish the same within a fortnight from the date of service of the notice. It is the contention of the petitioner that the structure was not raised by the petitioner but by the partners of the M/s. Mritunjoy Pharmacy who were not connected with the property at all. Thus it is the contention of the petitioner that the Corporation itself should take steps under the law for demolition of the same.

Mr. Banerjee, learned advocate appearing on behalf of the Kolkata Municipal Corporation, submits that unless the persons responsible can be identified, no proper steps can be taken by the Corporation. The Corporation has already taken steps by conducting an inspection and proceedings under Section 400 of the Kolkata Municipal Corporation Act, 1980, has been initiated.

Having heard the rival contention of the parties, this writ petition is disposed of with a direction upon the Executive Engineer, Building

Department, Borough No. XVI, Kolkata Municipal Corporation to dispose of the complaint lodged by the petitioner upon hearing the petitioner and all other family members of the petitioner between whom the property has been partitioned. The owners or partners of M/s. Mritunjoy Pharmacy shall also be heard. The petitioner shall supply the names of the such family members and their addresses. The competent authority of the Kolkata Municipal Corporation will act in terms of the statute and reach the proceedings initiated under Section 400 to its logical conclusion. The Kolkata Municipal Corporation shall also be entitled to make substituted service in terms of the Code of Civil Procedure in case the persons responsible do not appear before the Corporation.

The entire exercise should be concluded within a period of 5 months from the date of communication of this order.

With the above observations, this writ petition is disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)