

08.12.2021
Sl. No.22
srm

W.P.A. No. 14862 of 2021

Md. Aftab Hossain

Vs.

The Kolkata Municipal Corporation & Ors.

Mr. Imtiaz Ahmed,

Ms. Rafat Jahan

...for the Petitioner.

Sk. Md. Galib

...for the Respondent No.8.

Mr. Aindam Chatterjee,

Ms. Lipika Chatterjee

...for the State-respondents.

Mr. Debjit Mukherjee,

Ms. Dipanwita Ganguly

...for the KMC.

Despite service none appears on behalf of the respondent No.9. Affidavit of service is taken on record.

The petitioner has alleged that the respondent No.9 has been raising an unauthorised construction on Premises No.155/H/18, Keshab Chandra Sen Street, Kolkata – 700009, Ward No.38, Borough-IV.

Mr. Mukherjee, learned Advocate appearing on behalf of the KMC, has submitted a short report, from which it appears that upon *prima facie* detection of the unauthorised construction on the complaint of the petitioner, a stop work notice had already been issued upon the person responsible

under Section 401 of the Kolkata Municipal Corporation Act, 1980 on December 17, 2020. The police authorities had also been intimated. An F.I.R. had been lodged under Section 401A of the said Act.

The police authorities have submitted a report through Mr. Chatterjee, learned Advocate appearing on behalf of the State-respondents, from which it appears that pursuant to the complaint of the Kolkata Municipal Corporation, Amherst Street Police Station Case No.270 dated December 7, 2020 had been registered against one Seikh Syed and the investigation is in progress.

As the reports of the respondents, submitted before this Court, reveal that the Kolkata Municipal Corporation had decided to initiate demolition case in respect of the said construction and the police authorities have initiated a criminal case against the person responsible, there is no reason for the Court to keep the writ petition pending .

The writ petition is disposed of with the following directions:

- (a) The competent authority of the Kolkata Municipal Corporation shall cause an inspection of the premises in question in the presence of all the interested parties in order to ascertain whether there are any unauthorised

constructions and also to ascertain the extent and nature of the unauthorised constriction, if any.

- (b) A copy of the inspection report shall be handed over to the respective parties. The nature and extent of the unauthorised construction and a sketch map should be attached to the said inspection report.
- (c) The persons responsible, the petitioner as also the respondent Nos.8 and 9 shall be given a hearing.
- (d) The parties shall be allowed to file their written versions and adduce oral and documentary evidence in support of their respective claims at the hearing.
- (e) A reasoned order shall be passed and communicated to all concerned.
- (f) Needless to mention that the entire proceedings shall be reached to its logical conclusion in accordance with law.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

This Court has not gone into the merits of the claims and counterclaims of the parties and all points will be decided by the panchayat authorities, independently.

This writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)