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12.04.2021.  
d.p.

**W.P.A 14002 of 2019  
(Via Video Conference)**

**Sk. Alamgir  
-versus  
The State of West Bengal & Ors.**

**Mr. Sanjay Mukherjee.  
...For the Petitioner.**

**Mr. Debjit Mukherjee,  
Ms. Rupsa Chakraborty.  
...For the State.**

**Mr. Achintya Kumar Banerjee,  
Ms. Manisha Nath,  
Mr. Soumosree Chatterjee.  
...For the KMC.**

The petitioner alleges unauthorized construction in the premises No. 6/1A, Rameswar Shaw Road, Kolkata-700014.

According to the petitioner, the property in question is a thika property.

The petitioner has annexed document to show that the plan in respect of the said premises was sanctioned in favour of the Kolkata Improvement Trust.

The petitioner alleges that though the plan has been sanctioned for construction of a G+2 storied building but the person responsible has constructed G+6 storied building without obtaining necessary sanction from the Kolkata Municipal Corporation.

The learned advocate appearing for the Kolkata Municipal Corporation does not have any instruction

whether any plan has been sanctioned for construction of a G+6 storied building.

The learned advocate appearing for the State respondents has obtained instruction from the Officer-in-Charge, Beniapukur Police Station wherefrom it appears that a complaint was lodged by the officials of the Kolkata Municipal Corporation. On receipt of the complaint and after verification the Beniapukur Police Station Case No.137 dated 16<sup>th</sup> May, 2019 under Section 401A Kolkata Municipal Corporation Act, 1980 has been registered.

None appears on behalf of the private respondent.

As it appears that the Kolkata Municipal Corporation has already initiated proceedings under Section 401A, Kolkata Municipal Corporation Act, accordingly, the concerned officers of the Kolkata Municipal Corporation are directed to take steps in furtherance to the notice issued under Section 401A of the Act.

A formal objection against the unauthorized construction has been lodged by the learned advocate representing the petitioner on 14<sup>th</sup> June, 2019.

As it appears that the representation of the petitioner objecting to the illegal and unauthorized construction is pending consideration at the end of the respondent authorities, no useful purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the respondent no.3, Commissioner of the Kolkata Municipal Corporation to consider and dispose

of the representation made by the petitioner strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioner within a period of twelve weeks from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to all the necessary parties including the petitioner immediately thereafter.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by the petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The petitioner is directed to forward a copy of the representation dated 14<sup>th</sup> June, 2019 to the aforesaid respondent at the time of communicating the order of the Court.

The Commissioner of the Kolkata Municipal Corporation shall take necessary steps for consideration of the objection dated 14<sup>th</sup> June, 2019.

The instruction given by the Officer-in-Charge, Beniapukur Police Station is retained with the records.

WPA 14002 of 2019 stands disposed of.

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

**( Amrita Sinha, J.)**