

03.03.2021
SL No. 7
Court No.24
(P.M.)

WPA 9594 of 2020
Gayatri Saha & Anr.
Vs.
The Kolkata Municipal Corporation & Ors.

Mr. Raghunath Chakraborty,
Mr. M. Ahmed
... for the petitioners

Mr. Alok Ghosh,
Mr. Dwijadas Chakraborty
... for the Kolkata Municipal Corporation

Mr. Chanchal Kr. Dutta,
Ms. Krishna Mullick
... for the respondent No. 6

Petitioners allege illegal and unauthorised construction in the premises No. 19, Fakir Chand Mitter Street, Kolkata – 700009, Ward No. 38, Borough IV. According to the petitioners a construction of a G+5 storied building is made in the said premises in such a manner that the adjoining premises of the petitioners is being damaged. The petitioners made an objection before the Kolkata Municipal Corporation and alleges that no steps have been taken by the Corporation in response to the complaint filed by them.

The learned advocate appearing on behalf of the private respondent submits, upon instruction, that a plan has been sanctioned in his favour and construction is being made in accordance with the plan sanctioned. The private respondent denies the allegation of any unauthorised construction in the said premises.

Learned advocate appearing on behalf of the Kolkata Municipal Corporation submits, upon instruction, that a plan for construction of a G+4 storied residential building has been sanctioned in respect of the said premises. On receipt of a telephonic complaint the men of the Kolkata Municipal Corporation visited the site and on inspection it was revealed that the persons responsible has made construction of RCC columns, beam, roof, brick wall and plastering work in the 5th Floor and partly in the 6th Floor without sanction and also encroached all the mandatory sides spaces in the ground, first, second, third and fourth floor beyond the sanction plan.

The Department has served stop work notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 on 19.03.2020 and intimation to the police has also been sent. First Information Report has been lodged under Section 401A of the Kolkata Municipal Corporation Act. Requisition for the round the clock police posting has also been sent to the Joint Commissioner of Police. Demolition case file has been initiated and the proceeding has been initiated for taking steps in accordance with Section 400 of the Kolkata Municipal Corporation Act, 1980.

Upon hearing the submissions made on behalf of the Kolkata Municipal Corporation it appears that there has been deviation as well as unauthorised construction in the premises in question.

The writ petition is accordingly disposed of by directing the Municipal Commissioner to take necessary steps for completion of the proceedings initiated under Section 400 of the Kolkata Municipal Corporation Act, 1980, 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. The Kolkata Municipal Corporation shall afford an opportunity of hearing to the petitioners and all other necessary parties prior to taking any step in the matter.

As it has been submitted that there has been unauthorised construction in the premises in question accordingly the respondent no. 6 is restrained from carrying out any further construction in the said premises. The Officer-in-Charge of the Amherst Street Police Station is directed to ensure compliance of the restraint order passed herein.

Instruction given by the Kolkata Municipal Corporation to their learned advocate is retained with the records.

WPA 9594 of 2020 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.)