

25.01.2021
SL No.19
Court No.24
(P.M.)

WPA 11042 of 2020

**Nur Jahan & Ors.
Vs.
The Kolkata Municipal Corporation & Ors.**

Mr. Gourav Das

... for the petitioners

Mr. Subhrangshu Panda
... for Kolkata Municipal Corporation.

A notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 was issued in favour of one Abdul Gani and others in respect of the premises No. T-166, Mitha Talab Lane, Kolkata – 700018 as the construction therein was being carried on in deviation from the sanctioned or approved plan.

The Corporation lodged an FIR before the Officer-in-Charge of Rajabagan Police Station on 26th August, 2020 wherein it was mentioned, that in spite of notice to stop work it was observed during inspection, that the persons responsible were carrying on unauthorized structural work that is additional one storied RCC frame structure over the first floor roof level.

The petitioners complain that since the Corporation was of the opinion that the construction was carried on in deviation of the sanction plan, it was incumbent upon the authorities to intimate them the details of the deviation which was being made by the petitioners. Instead of

intimating the details of the deviation, the Corporation visited the site and demolished certain portions of the construction.

Learned advocate appearing on behalf of the Kolkata Municipal Corporation, submits upon instruction, that demolition of a portion of the aforesaid premises was carried on in terms of Section 400(8) of the Kolkata Municipal Corporation Act, 1980 which permits the Mayor-in-Council to form the opinion as to whether immediate action is called for in relation to a building or work being carried on in contravention of the provisions of the Act.

It has been submitted that the portion which has been demolished is an absolute unauthorized one. The portion where construction has been made in deviation of the sanction plan has not been demolished by the Corporation as yet.

The learned counsel for the Corporation is however unaware whether any reason has been recorded for taking immediate action by way of demolition of the unauthorized portions of the aforesaid premises.

In view of the above, the instant writ petition is disposed of by directing the Kolkata Municipal Corporation to immediately intimate the petitioners the details of the unauthorized construction that has been made by the petitioners in the aforesaid premises in deviation of the sanctioned plan.

The petitioners shall also be intimated the reasons as to why immediate steps were required to be taken for demolishing the alleged unauthorized portions of the building in question.

The Commissioner of the Kolkata Municipal Corporation shall take necessary steps in the matter, strictly in accordance with law, within a period of eight weeks from the date of communication of a copy of this order.

WPA 11042 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.)