

ORDER SHEET

WPO 42 of 2021
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Original Side

SUDAM CHANDRA MALAKAR
VS.
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date: 10th February, 2021

Mr. Tarique Quasimuddin, Mr. Deb Nath Ganguly, Mr.
Aranya Saha, Advocates for the petitioners.

Mr. Ranajit Chatterjee, Mr. Gopal Chandra Das, Mr.
Anindya Chatterjee, Advocates for K. M. C.

Mr. Sandip Ghose, Mr. Subrata Das, Mr. Debayan Ghosh,
Advocates for private respondent nos.7 & 8.

Mrs. N. S. Alam, Adv. for the State.

The Court : The petitioners allege illegal and unauthorised construction being carried on in the premises no.123, Tarak Pramanick Road, Ward No.25 Borough No.IV of the Kolkata Municipal Corporation.

According to the petitioner, the private respondents are making construction on the basis of a plan, which has expired long back. The petitioner further submits that presently the private respondents are making construction in deviation of the plan, which has been sanctioned subsequently in their favour.

The learned Advocate appearing on behalf of the private respondents submits, upon instruction, that they were making construction on the basis

of a plan sanctioned in their favour by the Kolkata Municipal Corporation and the said construction completed in the year 2020.

It has been submitted that at present no construction is being made by them. It has further been submitted that assuming if there is any deviation from the sanctioned plan then there is a provision for regularising the same in terms of the Kolkata Municipal Corporation Act, 1980 as amended and the private respondent is entitled to get an opportunity for regularization in terms of the said provision.

The learned Advocate appearing on behalf of the Kolkata Municipal Corporation submits, upon instruction, that on receipt of the complaint the officers of the Kolkata Municipal Corporation conducted an inspection and it was found that certain unauthorised construction in the form of (i) erection of four number of new RCC columns at 3rd floor deviating from reconstruction sanctioned plan vide no. 28/Br.-IV/2019-2020 dated 21st October, 2019, (ii) extension of four number of new RCC columns at 3rd floor deviating from sanctioned reconstruction plan.

It has been mentioned that the Department has already served a stop work notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 on 23rd November, 2019 with intimation to the local police on the self same date. The Department has already initiated the proceedings under Section 400 of the said Act and has placed the demolition case file before the authority of the Kolkata Municipal Corporation.

As it appears from the above submissions made by the Kolkata Municipal Corporation that they are aware of the unauthorised construction

that is being made in the premises in question and steps have been taken in accordance with the provision of the Act the Kolkata Municipal Corporation is directed to conclude the proceedings that has been initiated by them to deal with the unauthorised construction, 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 writ petition stands disposed of accordingly.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of usual legal formalities.

(AMRITA SINHA, J.)

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