

ORDER SHEET

WPO/134/2020
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

MD. QASIM
VS
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date: 3rd March, 2021.

Appearance:
Mr. Debdut Mukherjee, Adv.
Mr. Suniti Chatterjee, Adv.
..for the Petitioner.

Md. Adil Badr, Adv.
Mr. Sobhan Gani, Adv.
Md. Aqib Badr, Adv.
Md. Altamash Haider, Adv.
..for Private Respondent Nos.9,10 &11.

Mr. Alok Kumar Ghosh, Adv.
Mr. Fazlul Haque, Adv.
..for KMC.

Mrs. Shipra Mazumdar, Adv.
Mr. Sougata Mitra, Adv.
..for the State Respondent.

The Court:- The petitioner alleges illegal and unauthorized construction on the premises no.13B, Phears Lane, Ward 44, Borough-V, Kolkata-700073. The petitioner made an application under Right to Information Act, 2005 and the Kolkata Municipal Corporation by a communication dated 12th April, 2019 intimated the Advocate-on-record of the petitioner that no plan has been sanctioned by the Department in respect of the aforesaid premises. The petitioner thereafter made an objection before the Kolkata Municipal Corporation praying for demolition of the unauthorized construction that was being carried on in the said premises.

The learned advocate representing the private respondents, who are persons responsible for making construction in the said premises, submits that a plan has been sanctioned by the Kolkata Municipal Corporation in their favour in the year 2003 and construction has been made in accordance with the said plan.

The learned advocate appearing on behalf of the Kolkata Municipal Corporation submits, upon instruction, that in the year 2002, the owners obtained a building sanction plan for construction for two storied residential building by demolishing the old and existing structure. In the year 2003, the owners further obtained a fresh sanction of a ground + three storied residential building by demolishing the existing structure. The plan was valid till 1st March, 2008.

In the year 2011, it was revealed that the owners of the premises had not constructed any new building and the condition of the existing building was detected in a very dilapidated condition. To secure the condition of such existing four storied building, the department issued notice under Section 411(1) of the Kolkata Municipal Corporation Act, 1980 on 13th June, 2011. In the year 2012, certain unauthorized construction by way of additional floor over the existing four storied building was noticed by the Kolkata Municipal Corporation. A notice under Section 401 of the KMC Act dated 17th November, 2012 was served upon the owners and the police was intimated for taking necessary action against such illegal construction.

In the year 2019, the department learnt that the persons responsible were carrying on further construction in an unauthorized manner and accordingly, the department initiated demolition proceeding and also placed the demolition case before the authority for taking necessary steps in the matter. In the year 2019 notice under Section 400(8) of the Kolkata Municipal Corporation Act, 1980 was issued and a demolition programme for unauthorized construction at the said premises was initiated on 22nd July, 2019.

As it appears from the above that the Kolkata Municipal Corporation has already acted and taken steps against the illegal and unauthorized construction carried on in the said premises accordingly, the instant writ petition being WPO No.134 of 2020 is disposed of by directing the Municipal Commissioner of the Kolkata Municipal Corporation to take necessary steps for completion of the demolition proceedings by execution of the order issued under Section 400(8) 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.

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

Urgent certified photocopy of this order, if applied for, be supplied to the parties or their advocates on record expeditiously, on compliance of usual legal formalities.

(AMRITA SINHA, J.)

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