

OD- 6

WPO 135 of 2021
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

MD. ALI AZAD
VS
STATE OF WEST BENGAL AND ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date : 6th April, 2021.

Appearance :
Mr. Partha Pratim Roy, Adv.
Mr. Dyutiman Banerjee, Adv.
...for petitioner.

Mr. Bibek Basu, Adv.
Mr. S. Hasin, Adv.
....for respondent no. 14

Mr. Dwaipayan Basu Mallick, Adv.
Mr. Partha Banerjee, Adv.
...for respondent 9 to 12.

Mr. Gurudas Mitra, Adv.
Md. Ziaur Rahaman, Adv.
...for KMC

The Court: The petitioner alleges unauthorized construction in the premises no. 1/H/5, Kalimuddin Sarkar Lane and 2 Kalimuddin Sarkar Lane, Ward- 34, Borough – III, Police Station- Beliaghata, Kolkata-700010.

The learned Advocate appearing on behalf of the private respondents disputes the allegation of unauthorized construction. It has been submitted that minor repairing works are being made after obtaining permission from the Kolkata Municipal Corporation.

The learned Advocate appearing on behalf of the Kolkata Municipal Corporation has taken instruction wherefrom it appears that with regard to the premises no. 1/H/5, Kalimuddin Sarkar Lane a demolition sketch plan along with the infringement statement and other

related papers and documents have been perused and after detection of unauthorized construction the Department served notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 on 25th February, 2021 with intimation to the local police station. The Executive Engineer has come to a specific conclusion that the construction made in the said premises is unauthorized in nature and proposal has been initiated for demolition of the unauthorized construction under Section 400 of the Kolkata Municipal Corporation Act, 1980.

As regards the allegation of unauthorized construction in the premises no. 2, Kalimuddin Sarkar Lane there is no instruction from the Kolkata Municipal Corporation.

As it appears that the objection raised by the petitioner against the aforesaid unauthorized construction in both the premises is pending consideration at the end of the respondent authorities accordingly, no useful purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the respondent no. 2, the Commissioner, Kolkata Municipal Corporation or his delegate to take steps to consider the representation filed by the petitioner on 19th January, 2021 strictly in accordance with law, after giving an opportunity of hearing to all necessary parties and pass a reasoned order and communicate the same to the parties. A decision shall be taken in the matter at the earliest, but positively within a period of ten weeks from the date of communication of a copy of this order.

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 aforesaid respondent shall restrict the consideration only with regard to unauthorized construction and will not enter and decide into the private civil disputes in between the parties.

Writ petition is disposed of.

Instruction given by the Executive Engineer (Civil) Building Department Borough-III is retained with the records.

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

(AMRITA SINHA, J.)