

ORDER SHEET

WPO 444 of 2019
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

MR. RAJKUMAR SINGH & ANR.
VS.
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 14th January, 2021

Mr. Anjan Chattacharya, Ms. Anita Shaw,
Advocates for petitioners.

Mr. Biswajit Mukherjee, Ms. Manisha Nath,
Advocates for K. M. C.

Mr. Sounak Bhattacharyya, Mr. Chandranath Sarkar,
Advocates for respondent nos.5 & 6.

The Court : The petitioners complain illegal and unauthorised construction in the piece of land situated at premises no.105/2, Dr. G. S. Bose Road, Kolkata -700039 in J. L. No.13, Mouza - Kasba, Khatian No.1383, Dag No.137, R. S. No.223, Touzi No.1298/2833, formerly holding No.55, Pargana, Kolkata, Division 5, Sub-division P, P. S. Kasba, District – 24 Parganas (South) under Borough VII, KMC Ward No.67. The petitioners through their learned Advocate filed an objection before the Executive Engineer, Building Department, Borough VII by a letter dated 22nd July,

2019. The petitioners allege that the respondent authorities have not taken any step pursuant to the complaint received by them.

The learned Advocate representing the Kolkata Municipal Corporation submits, upon instruction, that in response to the complaint filed by the petitioners, an inspection was carried out at the site and it was noticed that a G+4 storied residential building has been sanctioned by the Corporation vide Building Permit no.2009070157 dated 18th December, 2009. During inspection it was noticed that unauthorised construction was going on in the 5th floor beyond the sanctioned plan. A stop work notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 was issued. As the person responsible for making construction proceeded with the construction work in violation of the stop work notice, an FIR was lodged under Section 401A of the KMC Act. The matter was proceeded under Section 400 of the KMC Act.

The learned Advocate representing the respondent nos. 5 and 6 submits, upon instruction, that they are not the persons responsible for making such unauthorised construction. It has been submitted that possibly the earlier developer who was responsible for making construction had made such illegal construction. The respondent nos. 5 and 6 are not aware of any such illegal construction being made. It has further been submitted that no notice has been served upon them by the Corporation, till date.

It appears from the submission of all the parties that the Corporation had duly inspected the premises and had come to a considered

opinion that construction was being made beyond the sanctioned plan. Proceedings have been initiated under Section 400 of the KMC Act but it appears that the same has not been concluded till date.

In view of the above, the instant writ petition is disposed of by directing the Kolkata Municipal Corporation to act strictly in accordance with law with regard to the alleged illegal construction that is being made in the premises in question. Such steps shall be initiated at the earliest and the proceeding be concluded 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.

The instruction given by the Corporation to their learned Advocate is retained with the records.

(AMRITA SINHA, J.)