

OD-3

IA No.GA/1/2021
In
APO/121/2021

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction

SUMIT KUMAR BOSE
VERSUS
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE ARIJIT BANERJEE
And
The Hon'ble JUSTICE KAUSIK CHANDA
Date : 24th November, 2021.

Appearance:

Mr. Soumya Majumder, Adv.
Mr. Vivekananda Bose, Adv.
Ms. Deblina Chatterjee, Adv.
..for the appellant

Mr. Alope Kumar Ghosh, Adv.
Mr. Gopal Chandra Das, Adv.
..for KMC

Mr. Abhijit Roy, Adv.
Mr. Pervez Hussain, Adv.
Mr. Bakhtiar Ali Shah, Adv.
Md. Shamsher Ahmed, Adv.
..for respondent nos.8, 9 & 10

Mr. Debjit Mukherjee, Adv.
Mr. S. Chatterjee, Adv.
..for the State

The Court: Read order dated November 11, 2021.

The allegation of the writ petitioner before the learned Single Judge was that unauthorised construction was being made by the private respondents on a particular plot of land. The private respondents disputed such fact. The learned Single Judge directed the Corporation authorities to

consider the complaint of the writ petitioner and take appropriate action. The grievance of the writ petitioner/appellant is that the learned Single Judge did not direct stoppage of the unauthorised construction work. Hence, this appeal.

The Corporation has filed a report in Court today. Let the report be kept with the records.

In the report, it is stated that on the plot of land, which the writ petitioner mentioned in the writ petition, no construction work was found. However, on an adjoining plot unauthorised construction was found to be on way. The Corporation has taken all necessary steps for stoppage of such work. The relevant portion of the report filed today is to the following effect:

“The Kolkata Municipal Corporation (Building Department) has taken all necessary actions i.e this department served stop work notice u/Sec. 401 of the K.M.C Act, 1980 on 02.08.2021 along with the police intimation slip sent to local police station (Amherst Street) on 02.08.2021. This department also lodged F.I.R u/Sec. 401A of the K.M.C Act, 1980 against the Person Responsible to the Amherst Street P.S.

Further, requisition for the round the clock police posting was also sent to Joint Commissioner of Police, Lalbazar.

Subsequently, the D/case file already initiated for proceeding under suitable sub section of section 400 of the K.M.C Act, 1980.”

We, therefore, see that the Corporation has taken necessary steps for stopping the unauthorised construction complained of. Needless to say, it is the duty of the Corporation authorities to ensure that no

unauthorised/illegal construction is made anywhere within its jurisdiction and if any unauthorised construction is detected, it is the Corporation's duty to ensure demolition thereof.

In the event, there is proceeding under Section 400 of the K.M.C Act for demolition of the alleged unauthorised construction, the Corporation shall give opportunity of hearing to all concerned parties.

In view of the aforesaid, nothing further survives of this appeal. The appeal and the application are accordingly disposed of.

(ARJIT BANERJEE, J.)

(KAUSIK CHANDA, J.)