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ORDER SHEET

WPO 469 of 2019

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

BIPIN MEHTA AND ORS
VS.
KOLKATA MUNICIPAL CORPORATION AND ORS

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 27th January, 2021.

Appearance:
Mr. Kallol Basu, Adv.
Mr. Bratin Kr. Dey, Adv.
Mr. Pradeep Pandey, Adv.
... for the petitioners

Mr. Alak Kr. Ghosh, Adv.
Mr. Mihir Kundu, Adv.
Ms. Piyali Sengupta, Adv.
... for K.M.C.

The Court : The petitioners are the tenants in respect of premises No.113, Chittaranjan Avenue, Kolkata – 700073. A notice under Section 610 read with Section 411 (1) of the Kolkata Municipal Corporation Act, 1980 was issued by the Kolkata Municipal Corporation upon the tenants and the occupiers of the aforesaid premises on 12th July, 2016. No step pursuant to the aforesaid notice was taken by either the tenants or the occupiers of the said premises.

The petitioners have filed a complaint before the Kolkata Municipal Corporation by a letter dated 25th July, 2019 wherein allegation has been

made regarding illegal construction on the roof of the building by installation of mobile tower. It has been contended that the mobile tower which has been installed is causing damage to the already dilapidated old building and it has been further contended that the said mobile tower was installed without taking into consideration the structural stability of the said building.

The petitioners presently pray for a direction upon the Kolkata Municipal Corporation for removal of the mobile tower upon consideration of their representation.

The learned counsel representing the Kolkata Municipal Corporation submits, upon instruction, that upon detection of the dilapidated condition of the five-storied mercantile and residential building, a notice under Section 411 (1) of the Act was issued to secure the dilapidated portion under supervision of an empanelled structural Engineer of KMC. A notice board declaring that the building is unsafe has also been fixed in the gate at the entrance of the building.

Upon receipt of the complaint regarding erection of the unauthorised mobile tower, an inspection was caused and it was revealed that a mobile tower has been erected at the roof of the existing building. The persons available at the site failed to produce any sanction plan in support of the said tower. The department served notice under Section 401 of the Act and intimated the Jorasanko Police Station for preventing further construction or erection. A D/Sketch plan has also been framed by the Corporation under Section 400 of the said Act.

As it appears that the Kolkata Municipal Corporation has already inspected the site on receipt of the complaint from the petitioners, it is incumbent upon the Corporation to take necessary steps if it is found that the installation at the roof of the building is illegal and unauthorised.

In view of the above, the instant writ petition is disposed of by directing the concerned officer of the Kolkata Municipal Corporation to take necessary steps with regard to the illegal and unauthorised construction made on the top of the five-storied old dilapidated building, strictly in accordance with law, within a period of twelve weeks from the date of communication of a copy of this order. The KMC shall afford an opportunity of hearing to the representatives of the petitioners and all other necessary parties prior to taking any steps in respect of the building in question. The steps taken by the Corporation shall be intimated to the petitioners and all other necessary parties.

WPO 469 of 2019 stands disposed of accordingly.

The instruction sheet given to the learned advocate appearing for the KMC is retained with the records.

Urgent Photostat certified copy of this order, if applied for, shall be supplied to the parties, after compliance of usual formalities.

(AMRITA SINHA, J.)