

ORDER SHEET

WPO 473 of 2019
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

KALLU BABU LALCHAND HUF
VS.
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date: 22nd February, 2021

Ms. Hashnuhana Chakraborty, Mr. Vinay Kr. Purohit,
Advocates for the petitioner.
Mr. Biswajit Mukherjee, Ms. Manisha Nath, Advocates for K.M.C.
Ms. Sipra Mazumdar, Mr. Dipal Halder, Advocates for the State.

The Court : The petitioner alleges illegal construction in the common passage by the private respondents. The petitioner lodged a complaint before the Kolkata Municipal Corporation. The petitioner alleges that no steps have been taken by the Corporation in response to the complaint filed by the petitioner. The petitioner prays for a direction upon the Kolkata Municipal Corporation to demolish the unauthorised construction.

None appears on behalf of the private respondents despite service. Affidavit of service filed in Court today is taken on record.

The learned Advocate for the Kolkata Municipal Corporation has handed up the instruction which was received by him from the Corporation. It appears therefrom that in response to the complaint filed by the petitioner the officials of the Kolkata Municipal Corporation inspected the premises and it was revealed that unauthorised construction was going on at the

backside of the premises in the ground floor. A stop work notice was issued to the person responsible for making construction. The stop work notice was not complied with and accordingly proceedings have been initiated for taking steps as per provision of Section 400(1) of the Kolkata Municipal Corporation Act, 1980. The demolition case file has already been sent to the Administrative Officer for placing the same before the Special Officer (Building) for hearing under Section 400(1) of the KMC Act, 1980.

From the aforesaid instruction it appears that the Kolkata Municipal Corporation has already come to a prima facie finding that there has been unauthorised construction in the premises in question. Accordingly, it will be appropriate to direct the Kolkata Municipal Corporation to conclude the proceedings initiated for demolition of the unauthorised construction.

In view of the above, the instant writ petition is disposed of by directing the respondent no.2 to take necessary steps to conclude the proceedings under Section 400(1) of the KMC Act, 1980 strictly in accordance with law, after giving an opportunity of hearing to the petitioner as well as the private respondents herein, at the earliest, but positively within a period of six months from the date of communication of a copy of this order.

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

WPO 473 of 2019 is disposed of.

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

(AMRITA SINHA, J.)

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