

OD-3

ORDER SHEET

WPO/1123/2021

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

ANIRBAN SENGUPTA
Versus
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : 17th November, 2021.

[Via Video Conference]

Appearance:
Mr. P.S. Deb Barman, Adv.
Mr. Amit Gupta, Adv.
Mr. N. Chowdhury, Adv.
For the petitioner.

Mr. Swapan Kumar Debnath, Adv.
Mr. Dipankar Ghosh, Adv.
For the K.M.C.

The Court :- Affidavit of service filed in Court be taken on record.

The writ petitioner has challenged a notice issued by the Kolkata Municipal Corporation under Section 401 of the Kolkata Municipal Corporation Act, 1980. The petitioner has been asked to stop construction.

Mr. Deb Barman submits that the Corporation must give an opportunity to the petitioner to pray for regularization. This Court cannot pass any such order. The Corporation must dispose of the proceedings to

be initiated against such unauthorized construction. They have prima facie detected some unauthorized construction.

The Corporation has already issued a stop work notice. The Corporation must complete the proceedings as per the provisions of the statute. An inspection of the premises should be held by the Corporation in the presence of the petitioner, so that the extent of the unauthorized construction can be pointed out in the inspection report. The inspection report shall be handed over to the petitioner. Thereafter, a hearing shall be given to the petitioner and a reasoned order shall be passed while considering the matter. The petitioner may also make a prayer for regularization if permitted by law and the same may be considered as per law.

This order shall not be construed as a direction for regularization and the Corporation shall act and proceed on the basis of the provisions of law. A reasoned order shall be passed and communicated to all the parties. The Corporation shall have liberty to conclude the proceedings in accordance with law and take all such steps as permitted under the law.

The entire exercise shall be completed within a period of twelve weeks from the date of communication of this order.

(SHAMPA SARKAR, J)