

17.3.2022
Court No. 19
Item no.35
sn

WPA 766 of 2022

Musarat Bano
Vs.
The State of West Bengal & Ors.

Mr. Syed Nasim Aejaaz
Mr. Syed Md. Alifor the petitioner

Ms.Koyeli Bhattacharyya
Mr. Abhishek Sikdar
..for the KMC

Ms. Jhuma Chakraborty
Mr. Aritra Ghosh
..for the State

Despite service, none appears on behalf of the respondent nos. 8 & 9. Let the affidavit of service be kept on record.

It is alleged by the petitioner that the respondent nos.8 & 9 have raised some unauthorised construction on premises no. 16, Patwa Bibi Lane, Kolkata 700 011. It is further submitted by the petitioner that a demolition order had been passed in respect of the building on the said premises and the learned Municipal Magistrate sentenced the respondent nos. 8 & 9 to imprisonment for three years, and also for payment of fine of Rs.50,000/-. It is further submitted that in spite of the order of demolition of the unauthorised construction, the said

respondents have constructed further floors, unauthorisedly.

Hence, the interference of the writ Court is prayed for in view of the inaction of the Kolkata Municipal Corporation against such unauthorised construction.

The learned advocate for the Corporation has submitted before this Court that in respect of the self-same premises, another writ petition was moved by one Abdul Rahaman in WPA 14457 of 2021. The said writ petition was disposed of by an order dated January 20, 2022 with a direction upon the Kolkata Municipal Corporation to act and proceed in accordance with law and in the manner provided under the statute. Accordingly, the Corporation had fixed the date on February 16, 2022 for joint inspection of the premises in question. The stop work notice was issued on February 17, 2017 and an FIR was also lodged.

Thus, this Court is of the view that the order dated January 20, 2022 passed in WPA 14457 of 2021 shall also be applicable in this case and the proceeding already initiated shall be reached to its logical conclusion as per the order dated January 20, 2022 with the only exception that the petitioner shall also be heard when the matter is taken up by the

competent authority of the Corporation. A notice of hearing shall be sent to the petitioner.

In the meantime, the police authorities shall ensure that the order of the Corporation is complied with and the proceeding initiated on the basis of the complaint of the petitioner under Section 401A of the Kolkata Corporation Act, 1980 shall be reached to its logical conclusion and in accordance with law.

Accordingly, the writ petition is disposed of.

There will be however no order as to costs.

Parties are to act on the server copy of this order and/or learned advocate's communication.

(Shampa Sarkar, J.)