

15.02.2022  
Court No. 19  
Item no.06  
CP

WPA 1131 of 2022

Shahnaz Banu  
Vs.  
The Commissioner,  
The Kolkata Municipal Corporation & ors.

Mr. Shaunak Ghosh  
Md. Hossain  
.....for the petitioner.

Ms. Sipra Majumdar  
Ms. Sangeeta Roy  
.....for the State.

Mr. N. C. Behani  
Mrs. Amrita Panja Moulick  
....for the K.M.C.

Mr. Shareq Siddique  
....for the respondent no. 7.

The petitioner alleges illegal and unauthorized construction by the respondent no. 7 on Premises No. 4/1C, Convent Lane, P.S. Entally, Kolkata – 700015. It is the contention the petitioner that the developer without paying any heed to the petitioner who claimed to be the land owner has constructed a G + 4 storeyed building without a valid permission from the Kolkata Municipal Corporation (hereinafter referred to as ‘the corporation’). A complaint was also lodged with the corporation on January 15, 2022 which is annexure P-5, at page 34 of the writ petition.

Learned advocate appearing on behalf of the respondent no. 7, submits that the said construction has been made on the basis of the direction and instruction of the petitioner. That the respondent no. 7 is not the developer or the promoter but is a labour contractor. It is specifically submitted that the respondent no. 7 has done everything on the direction and instruction of the petitioner.

Having heard the controversies between the parties, this court is of the opinion that if the corporation ultimately finds that the alleged construction is illegal, and if none of the parties before the court take responsibility, the corporation shall act and proceed in accordance with law and take such steps as may be necessary to ensure that the unauthorized building is not allowed to remain. The corporation will dispose of the complaint of the petitioner in accordance with law upon giving a hearing to all the interested parties. While doing so, the corporation will adhere to the following procedure:

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the parties, with 48 hours advance notice to the petitioner and the respondent no. 7. If none are available

for service of notice, a copy of the notice for inspection and also for hearing shall be affixed at a conspicuous place on the alleged construction and the same shall be treated as a proper notice upon all persons who may respond to the notice and claim responsibility.

- b) The report of the inspection shall be prepared along with the sketch map indicating the extent of deviation, if any.
- c) Such report shall be handed over to the petitioner as also the respondent no. 7.
- d) A hearing shall be given to the petitioner and the respondent no. 7. The parties must also be allowed to furnish their written objection/version to the said report and adduce oral and documentary evidence in support of their contentions before the competent authority.
- e) A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion in terms of the statute.

The court has not gone into the merit of the claims and counter-claims of the parties and the issues shall be decided independently.

If the corporation comes to the conclusion that the building should be demolished such order will be passed and the cost of demolition shall be recovered from the persons found to be responsible for such construction.

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

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

**(Shampa Sarkar, J.)**