

16.2.2022
Ct. No.19
Sl.no.8
sn

W.P.A. No. 1595 of 2022

Chitra Chatterjee
Vs.
Kolkata Municipal Corporation & Ors.

Mr. Jayanta Samanta
Mr. Karunamoyee Samanta
....for the petitioner
Mr. Himadri Sikher Chakraborty
Mr. Tapan Roy
..for the State
Ms. Koyeli Bhattacharyya
Ms. Poushali Banerjee
..for the KMC

Despite service, none appears on behalf of the respondent no.10. Affidavit of service is taken on record.

It is alleged that the respondent no.10 has covered substantial portion of the open space in the ground floor of premises no. 18/4C, Fern Road, P.S. Gariahat, Kolkata 700 019 without any permission from the Kolkata Municipal Corporation. A suit for eviction of the respondent no.10 is pending before the Civil Court.

The police authorities have submitted a report from which it appears that RCC structures have been erected. The learned advocate for the Kolkata Municipal Corporation submits that upon detecting some unauthorised constructions a 'stop work' notice under Section 400(1) of the Kolkata Municipal Corporation Act,1980 has been issued.

As the Kolkata Municipal Corporation has already initiated a proceeding by issuance of a 'stop work' notice, the writ petition is disposed of with a direction upon the competent authority of the Kolkata Municipal Corporation to conclude the proceeding initiated in accordance with law. While doing so, the Corporation shall 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, within three weeks. Advance notice of the inspection shall be served upon the petitioner and the respondent no.10. If the parties are not available to accept notice, the authorities shall affix the notice of hearing and inspection at a conspicuous place in their respective premises.
- b) If it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and was continuing, the authorities may take interim measures.
- c) The report of such inspection shall be prepared indicating the extent and nature of unauthorized construction, if any.
- d) Such report shall be handed over to the petitioner as also the respondent no.10.
- e) A hearing shall be given to the petitioner and the respondent no.10. 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.

f) 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 merits of the claims and the issues involved shall be decided independently.

g) The question of title, encroachment etc. shall not be gone into by the Corporation.

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

This 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.)