

21
30.11.2022
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 2660 of 2020

**Rinky Begum
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. M.M. Verma,
Mr. Abhishek Verma,
Ms. Punam Verma.
...For the Petitioner.**

**Mr. Debjit Mukherjee,
Ms. Rupsha Chakraborty.
...For the State.**

**Mr. Subhrangsu Panda,
Ms. Ina Bhattacharyya.
...For KMC.**

The petitioner complains of illegal and unauthorized construction at the instance of the private respondents in Premises No.12/4/H/14, Patwar Bagan Lane, Ward No. 37, Borough-V under the jurisdiction of the Kolkata Municipal Corporation.

A report has been filed by the Sub-Assistant Engineer, Assistant Engineer and Executive Engineer (Civil)/Building, Borough-IV & V that physical inspection revealed unauthorized construction of several number of column footings (partly) and construction of RCC columns, beams, roof slab and stair case in the ground floor.

The department served notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 against

the person responsible for making construction. An FIR was lodged with the Amherst Street Police Station on 28th May, 2019. The department has initiated proceeding under Section 400 of the Kolkata Municipal Corporation Act and the Director General (Building) has ordered to deal with the matter under Section 400(1) of the Kolkata Municipal Corporation Act on 4th November, 2019.

The report further mentions that despite stop work notice, the person responsible continued with the unauthorized construction. Round the clock police posting has been sought for from the Additional Commissioner of Police (I) Lalbazar duly communicated to the Deputy Commissioner of Police (North) and Officer-in-Charge, Amherst Street.

It appears from the report filed in Court today that after November 2019, no steps have been taken by the Corporation to deal with the unauthorized construction.

At the time of inspection of the disputed structure in the year 2019 only column footings, RCC columns etc. were detected in the ground floor.

Learned advocate appearing for the petitioner submits that as on date the construction has gone upto the 5th floor level.

The inaction on the part of the Corporation to take prompt steps in the matter has permitted the person responsible to continue with the unauthorized construction.

The conduct of the Corporation cannot be supported in law.

It seems that the men and agents of the Corporation have tacitly supported the unauthorized construction to come up by not taking any steps to prevent the same.

Had the Corporation acted in proper time, then further unauthorized construction could have been stopped at the ground floor level itself. The authority ought to have acted with due diligence the moment unauthorized construction was detected. At present the unauthorized construction has to be dealt with appropriately in accordance with law.

In view of the above, the instant writ petition is disposed of by directing the Commissioner, Kolkata Municipal Corporation to take immediate steps to deal with the unauthorized construction, strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties and pass a reasoned order and communicate the same to the parties.

The proceeding to deal with the unauthorized construction shall be concluded at the earliest, but positively within a period of twelve weeks from the date of communication of a copy of this order.

The Deputy Commissioner of Police (North) and the Officer-in-Charge, Amherst Street Police Station are directed to keep strict vigil over the property to ensure that no construction in any manner whatsoever is carried out at the said premises till the matter is

conclusively decided by the Commissioner of the Kolkata Municipal Corporation.

Report filed by the engineers of the Corporation in Court today be taken on record.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)