

Sl. No.29
27.09.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 5394 of 2022

Shagufta Sulaiman
v.
The Kolkata Municipal Corporation & Ors.

Ms. Shagufta Sulaiman
...petitioner in person

Mr. Alok Kumar Ghosh
... for the Kolkata Municipal Corporation

Mr. Dhiraj Trivedi
Mr. Varun Kothari
Mr. Bhupendra Gupta
... for the respondent no.9

Mr. Srijan Nayek
Ms. Rituparna Maitra
... for the State

The petitioner is aggrieved by the inaction on the part of the Kolkata Municipal Corporation to take steps against the unauthorised construction made by the private respondent.

It appears from the documents annexed to the writ petition that the Assistant Engineer (Civil), Kolkata Municipal Corporation, Borough-VI, intimated the Officer-in-Charge, Park Street Police Station to take follow up action in prevention of the unauthorised construction at the premises No.85/2A, Muzaffar Ahmed Street, Ward No.62, Borough-VI, and to keep strict vigil over the person responsible and his men and machinery

so that unlawful construction work may not be perpetrated.

It appears from the submission made by the petitioner appearing in person that the private respondent is making construction in an unauthorised manner without obtaining any sanction from the Kolkata Municipal Corporation.

Learned advocate representing the private respondent submits that pursuant to the notice issued under Section 401 of the Kolkata Municipal Corporation Act, 1980 no further construction has been made.

The petitioner denies the aforesaid contention.

The Kolkata Municipal Corporation as well as the Police ought to ensure that the private respondent does not continue with the unauthorised construction in the absence of a sanctioned plan from the Corporation. The inaction on the part of the respondent authorities has given a handle to the private respondent to carry on with the unauthorised construction with impunity. The said inaction on the part of the respondent authorities cannot be supported in law.

The Corporation as well as the Police ought to be more vigilant while dealing with allegation of unauthorised construction failing which the person responsible for making unauthorised construction may continue with the same and thereafter hand over possession of the

portions constructed unauthorisedly to unsuspecting buyers. The same gives rise to protracted litigations at the instance of the third parties.

In view of the above, the Executive Engineer of the Borough-VI of the Kolkata Municipal Corporation, the respondent no.5 herein, is directed to take prompt necessary steps to deal with such unauthorised construction at the earliest but positively within a period of twelve weeks from the date of communication of this order.

An opportunity of hearing be given to all the necessary parties and reasoned order be communicated to the parties.

The Commissioner of Police, being the respondent no.6 herein, is directed to ensure that no unauthorised construction is carried on at the subject premises till the matter is finally decided by the concerned authority of the Kolkata Municipal Corporation.

Strict Police vigil shall be maintained to ensure that no unauthorised construction takes place at the subject premises.

The report filed by the Officer-in-Charge, Park Street Police Station dated 26th September, 2022 be retained with the records.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)