

Item No. 9

02.09.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 5600 of 2022
Abid Alihussain Tundawala
v.
The Kolkata Municipal Corporation & Ors.

Mr. Sayan Chattopadhyay
Mr. Kaustav Sen
Mr. R. Ali
... for the petitioner.

Mr. Himadri Sikhar Chakraborty
Mr. Susnita Saha
... for the State.

Mr. Srijan Nayak
Mr. Subhrangsu Panda
... for KMC.

Affidavit-of-service filed in Court today is taken on
record.

None appears on behalf of the respondent nos. 9 &
10 i.e. the persons allegedly responsible for making
unauthorized construction.

The instruction which has been forwarded by the
Kolkata Municipal Corporation mentions that in
response to the complaint lodged against the
unauthorized construction the department served notice
and FIR was lodged. Proceeding under Section 400 of the
Kolkata Municipal Corporation Act, 1980 was also
initiated. A hearing was conducted by the Special Officer
(Building) and in compliance with the order passed by

the Special Officer (Building) the persons responsible deposited the necessary retention fees and the department has regularized the D-Sketch plan vide No. 01/Br-V/2021-22 dated May 11, 2021.

An application was made for reconstruction of the old and the damaged staircase and two separate stair-head rooms over the existing staircase and lift well, lift lobby, lift machine rooms under Rule 3(2) (e) of the Kolkata Municipal Corporation Building Rules 2009 and under Section 410 of the Kolkata Municipal Corporation Act, 1980. After inspection, the department sanctioned reconstruction plan on January 10, 2022.

On further inspection it was found that the reconstruction work is going on as per the reconstruction sanctioned plan.

It appears from the report filed by the Kolkata Municipal Corporation that the alleged unauthorized construction has already been permitted to be retained upon payment of retention fees.

In the event, the petitioner is aggrieved by the said order of retention passed by the Special Officer (Building), it will be open for the petitioner to approach the appropriate forum for remedy.

No further order can be passed in the present writ petition.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)