

AD. 26.
April 27, 2022.
MNS.

WPA No. 6120 of 2022

Rajesh Doshi and others
Vs.
The Kolkata Municipal Corporation and others

Mr. Jayjit Ganguly,
Mr. P. Sanchali,
Mr. Varun Kothari,
Mr. Biswajit Chowdhury

...for the petitioners.

Mr. Debjit Mukherjee,
Ms. Susmita Chatterjee

...for the KMC.

Mr. Jahar Datta,
Mr. Jaladhi Das

...for the State.

Affidavit-of-service filed in Court today be kept
on record.

The written instructions filed by learned
counsel for the Kolkata Municipal Corporation (KMC)
also be kept on record.

The petitioners have raised a grievance that
the KMC is sitting tight over the complaint of the
petitioners regarding illegal constructions and
encroachments having been undertaken at the
behest of the private respondents, after merely
issuing a notice under Section 401 of the Kolkata
Municipal Corporation Act, 1980 (1980 Act) long
back.

Learned counsel further submits that extensive encroachments have been made in an unauthorised and illegal manner by the private respondents and it is the incumbent duty of the KMC to take appropriate steps in that regard.

Learned counsel appearing for the KMC submits that after the initial issuance of a notice under Section 401 of the 1980 Act, an inspection was held by the KMC officials whereupon a second notice under Section 401 of the 1980 Act was issued and on the impression given by the private respondents that the unauthorised boundary walls, which were discovered by the KMC officials on January 21, 2022 had been removed, the KMC held a further inspection and found that the unauthorised constructions made at the premises-in-question had actually been removed by the private respondents.

As such, it is submitted, the notice under Section 401 of the 1980 Act was withdrawn by the KMC. However, learned counsel for the KMC candidly submits that it is open to the petitioners to lodge appropriate complaint in respect of conversion, upon which the KMC is to take appropriate steps.

It is further submitted by learned counsel for the KMC that recently, on inspection, it has been found that the office space at the ground floor of the premises has been converted into a restaurant, for which a notice under Section 416 of the 1980 Act has

been served on the private respondents on April 19, 2022.

Upon hearing learned counsel for the parties, it is seen that, as admitted by the KMC itself, a conversion has apparently taken place in the premises-in-question at the behest of the private respondents.

Hence, WPA No. 6120 of 2022 is disposed of by directing the KMC to take the notice issued by the KMC to its logical culmination as expeditiously as possible in accordance with law.

In the event the petitioners are of the opinion that there have been further unauthorised constructions made by the private respondents at the premises and/or the previously made unauthorised constructions have not been totally removed, which is *prima facie* indicated by the running of a restaurant at the locale, it will be open to the petitioners to lodge further complaint before the KMC, upon which the KMC, if *prima facie* satisfied, shall issue a further notice under Section 401 of the 1980 Act and take appropriate follow-up steps accordingly.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)