

Sl. No.138
(Monthly List)
18.07.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 8183 of 2021

Sandhya Paul & Anr.
Versus
Kolkata Municipal Corporation & Ors.

Mr. Dilip Kumar Samanta
Mr. Biswapriya Samanta

... for the petitioner

Mr. Fazlul Haque
Mr. Mihir Kundu

... for the Kolkata Municipal Corporation

The matter relates to premises No.B/112/1/H/5,
Cossipore Road, Ward No.6, Borough-I, under the
jurisdiction of the Kolkata Municipal Corporation.

The petitioners contend that the respondent no.7
has made construction over the aforesaid plot of land
by obtaining a sanctioned plan upon suppression and
misrepresentation of facts. It has further been
submitted that construction is being made in deviation
of the plan sanctioned by the Corporation.

The petitioners filed representation before the
Kolkata Municipal Corporation in March, 2021 and
allege that the said representation has not been taken
up for consideration till date.

None appears on behalf of the private
respondents.

Learned advocate representing the Kolkata Municipal Corporation submits that a report signed by the Executive Engineer (Civil), Building Department, Borough-I, Kolkata Municipal Corporation dated 6th July, 2022 which mentions that the building in question is an unauthorised one. Notice under Section 400(1) of the Kolkata Municipal Corporation, 1980 was served upon the person responsible on 17th December, 2020 and subsequently First Information Report under Section 401A of the Act was also lodged against the person responsible before the Chitpur Police Station on 17th December, 2020. The matter has been forwarded before the higher authority on 20th March, 2021 for taking steps under Section 400 of the Act.

As it appears from the report of the Kolkata Municipal Corporation that steps have already been initiated against unauthorised construction, accordingly, the Municipal Commissioner is directed to depute a competent person to dispose of the proceeding which has been initiated for dealing with the unauthorised construction in accordance with law, after giving reasonable opportunity of hearing to the petitioners as well as other necessary parties at the earliest, but positively within a period of four months from the date of communication of this order.

The competent officer of the Kolkata Municipal Corporation shall intimate the petitioners the fate of the proceeding immediately thereafter.

It is made clear that Kolkata Municipal Corporation shall not enter into and decide any private dispute in between the parties.

Instruction given by the Executive Engineer (Civil), Building Department, Borough-I, Kolkata Municipal Corporation dated 6th July, 2022, be retained with the records.

Unserved envelope of the respondent no.8 with the postal endorsement 'not known' be also retained with the records.

The writ petition stands disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)