

20.05.2022
Item No.7
Court No.6.
AB

M.A.T. 620 of 2022
With
I A CAN 1 of 2022

Dipak Kumar Das
Vs
Kolkata Municipal Corporation & Others

Mr. Arif Ali,
Mr. Bikash Kr. Roy ...for the Appellant.

Mr. Santanu Kr. Mitra,
Mr. Ganga Prasad Mukherjee...for the State.

Mr. Gopal Chandra Das,
Mr. Rudranil De for the K.M.C.

By consent of the parties, the appeal and the application are taken up for hearing.

This appeal is directed against an order dated June 2, 2021, whereby W.P.A. No.3083 of 2021 was dismissed.

The writ petitioner/appellant approached the learned Single Judge with the grievance that the private respondent had taken illegal possession of his land and was making unauthorized construction thereon. In spite of complaints having been made to the Corporation Authorities, no action was being taken.

Before the learned Single Judge, it was submitted on behalf of the Kolkata Municipal Corporation that 'stop work notice' under Section 401 of the Kolkata Municipal Corporation Act, 1980 had

been issued by the Corporation to the private respondent.

The learned Judge noted the above submission and dismissed the writ petition, also observing that no further complaint has been lodged by the writ petitioner at any point of time. Being aggrieved, the writ petitioner is before us by way of this appeal.

Before us, learned Advocate appearing for the appellant says that numerous complaints have been lodged by the appellant with the police authorities but in vain. No steps have been taken by them. The learned Judge should not have dismissed the writ petition, since admittedly the private respondent was making unauthorized construction on the concerned plot of land and that is why notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 has been issued by the Corporation.

On behalf of the State, it is submitted that a first information report has been registered against the private respondent under Section 401A of the Kolkata Municipal Corporation Act, 1980 and after completion of investigation, charge sheet has also been filed. A requisition has been sent by the State to Kolkata Municipal Corporation on April 14, 2022 enquiring as to whether unauthorized construction has been made by the private respondent. In other words, learned Advocate says that all necessary steps are being taken on behalf of the State.

Learned Advocate for the Kolkata Municipal Corporation says that the proceedings initiated against the private respondent will be carried to its logical conclusion.

Having heard learned Advocates for the parties, we are of the view that the learned Judge should not have dismissed the writ petition. The order under appeal is set aside. The Corporation shall carry the proceedings initiated against the private respondent to its logical conclusion and the proceedings shall be completed within eight weeks from the date of receipt of a copy of this order by the concerned Officer. The Corporation and the police authorities shall also ensure that there is no further unauthorized/illegal construction at the instance of the private respondent.

Since we have not called for affidavits, the allegations in the stay application are deemed not to be admitted by the respondents.

MAT No.620 of 2022 stands disposed of along with IA CAN 1 of 2022.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Subhendu Samanta, J.)

(Arijit Banerjee, J.)