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06.09.2022
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 12996 of 2022

**Dawood Khan & Ors.
-versus
The State of West Bengal & Ors.**

**Mr. Debanik Banerjee,
Mr. Steven Sourodip Biswas.
...For the Petitioners.**

**Ms. Koyeli Bhattacharyya,
Mr. Manojit Pal.
...For KMC.**

**Mr. Farooque Ali.
...For the Respondent No.7.**

**Mr. Sharukh Raja.
...For the Respondent No.8.**

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

The petitioners allege illegal and unauthorized construction at the instance of the respondent Nos. 7 and 8.

An objection was filed by the petitioners before the Kolkata Municipal Corporation.

The petitioners allege that the same has not been taken up for consideration till date.

Learned advocate appearing for the private respondents denies the contention of the petitioners.

Learned advocate appearing for the Kolkata Municipal Corporation has filed a report before this Court signed by the Assistant Engineer (Civil) and Executive Engineer (Civil), Building Department, Borough-VIII of the Kolkata Municipal Corporation.

The report reveals that a building plan for constructing G+3 storied residential building was sanctioned but the person responsible constructed one additional floor (4th floor) in deviation of the sanctioned plan.

Notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 followed by action under Section 401A of the said Act by lodging FIR before the Karaya Police Station has been taken on 18th April, 2016.

The file was thereafter, placed before the concerned department.

A hearing was conducted and order was passed for retention of the additional construction and the same was approved by the Mayor. The person responsible failed to deposit the retention charges.

On recent inspection, it was found that the person responsible covered the car parking portion by brick walls in front and by a RCC slab cast at rear portion measuring about 7.5 Sq.M. supporting the boundary wall.

A letter has been issued to the person responsible not to proceed with any further construction work and to demolish of the recent construction within ten days.

Copy of the said letter has also been forwarded to the Karaya Police Station for taking necessary action.

The report mentions that if the party fails to demolish the recent construction, the department will take further action.

As it appears that the Corporation has already acted in response to the complaint filed by the petitioners, accordingly, the competent officer of the Kolkata Municipal Corporation is directed to conclude the proceeding initiated against the person responsible for making unauthorized construction strictly in accordance with law, after giving a reasonable opportunity of hearing to all the necessary parties.

A final order shall be passed in the matter positively within a period of twelve weeks from the date of communication of a copy of this order.

The report filed by the Kolkata Municipal Corporation be retained with the records.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)