

S/L 10  
20.01.2022  
Court. No. 19  
GB

WPA 14457 of 2021

Abdul Rahaman  
Vs.  
The State of West Bengal & Ors.

*Mr. Chinmoy Pal,*  
*Mr. Sourov Mandal.*

*...for the Petitioner.*

*Mr. Rajarshi Basu,*  
*Mr. K.M. Hossain.*

*...for the State.*

*Mr. Arijit Dey,*  
*Mr. Anujit Mookherjee.*

*...for the K.M.C.*

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

The petitioner has alleged unauthorized construction by the respondent nos.8 and 9. None appears on behalf of the said respondents. The matter is taken up in the absence of the said respondents as no mandatory directions are being passed by this Court and the entire matter is relegated to the Kolkata Municipal Corporation for final disposal of the issues involved upon giving an opportunity to the respondents Nos.8 and 9 at every stage.

According to the petitioner, the respondent nos.8 and 9 have raised some unauthorised constructions on Premises No. 16 Patua Para Lane, Police Station - Narkeldanga, Kolkata - 700011.

The learned advocate for the Kolkata Municipal Corporation submits that on an inspection of the said premises a G+3 storied incomplete building was detected. On, prima facie, being satisfied that the construction was unauthorized, the authorities of the Kolkata Municipal Corporation issued a stop work notice on February 13, 2017. An FIR was lodged with the police station under Section 401A of the Kolkata Municipal Corporation Act, 1980 on April 4, 2017. It is further submitted that demolition proceedings have been initiated.

The Officer-in-Charge of the Narkeldanga police station has submitted before this Court through his learned advocate that an investigation was made pursuant to the complaint in the Kolkata Municipal Corporation and a charge-sheet has been filed being charge-sheet no.208 of 2017 before the learned court below.

As the Kolkata Municipal Corporation has, prima facie, found unauthorized construction and the police authorities have also acted in terms of the provisions of Section 401A of the Kolkata Municipal Corporation Act, noting further remains to be decided by this Court in this proceeding. The proceeding already initiated by the Kolkata Municipal Corporation shall be reached to its logical conclusion in accordance with law and upon compliance of the principles of natural justice. The corporation shall dispose of the entire issue, in the following manner:

- a) An inspection shall be conducted in the presence of the parties, with 48 hours advance notice to the parties. If the parties are not available to accept notice, the same shall be affixed at a conspicuous place in the respective premises.
- b) Such report shall be handed over to the parties.
- c) A hearing shall be given to the petitioner and the respondents Nos.8 and 9. The parties must also be allowed to furnish their written objection/version to the said report and adduce oral and documentary evidence in support of their contentions before the competent authority.
- d) A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion in terms of the statute.

The court has not gone into the merits of the claims and counter-claims of the parties and the issues shall be decided independently.

In view of the rising pandemic situation, the entire exercise shall be completed within a period of eight months from the date of communication of this order.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

**(Shampa Sarkar, J.)**