

Sl. No.50
07.09.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A 15536 of 2022

Tapan Kumar Saha
Versus
The Kolkata Municipal Corporation & Ors.

Mr. Sanat Kumar Biswas
... for the petitioner

Mr. Debjit Mukherjee
Ms. Dipanwita Ganguly
... for the Kolkata Municipal Corporation

Mr. Naba Kumar Das
Mr. Subhabrata Das
... for the State

The petitioner alleges illegal and unauthorised construction in the premises no.39, Dr. Dhiren Sen Sarani, Ward No.27, Borough-IV, Kolkata at the instance of the respondent no.6.

None appears on behalf of the respondent no.6 despite service.

Affidavit of service filed in Court is taken on records.

A report has been filed by the learned advocate representing the Kolkata Municipal Corporation signed by the Sub Assistant Engineer, Engineer (Civil)/Building, Assistant Engineer (Civil)/Building, Executive Engineer (Civil)/Building, Borough-IV & V sent on 1st August, 2022.

The report mentions that an inspection was conducted to ascertain the allegation of the petitioner and it was revealed that Corporation sanctioned building plan for constructing G+2 storied residential building. The person responsible has constructed one additional floor i.e. third floor in violation of the building sanctioned plan.

The department has served a stop work notice under Section 401 of the Kolkata Municipal Corporation Act and intimation has been sent to the local Police Station on 18th July, 2022. First Information Report under Section 401A of the Act has also been lodged before the Burtolla Police Station. Steps are being taken to file proceeding under suitable sub section of Section 400 of the Kolkata Municipal Corporation Act.

As it appears that the Corporation has already taken steps to deal with the unauthorised construction, accordingly, the present writ petition is disposed of by directing the competent authority of the Kolkata Municipal Corporation to take necessary steps strictly in accordance with law and conclude the proceeding at the earliest but positively within a period of twelve weeks from the date of communication of this order.

The competent authority shall pass a reasoned order and communicate the same to all the parties.

An opportunity of hearing be given to the necessary parties prior to passing a final order in the matter.

Report filed by the Kolkata Municipal Corporation dated 01.8.2022 and the report filed by the Officer-in-Charge, Burtolla Police Station be retained with the records.

The Officer-in-Charge of Burtolla Police Station is directed to ensure that no construction is carried on at the said premises till the matter is finally decided by the Kolkata Municipal Corporation.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)