

Sl. No.10
09.11.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 16171 of 2022

Md. Chand
versus
The Kolkata Municipal Corporation & Ors.

Mr. Tanvir Hossain
... for the Petitioner.
Mr. Nilotpal Chatterjee,
Mr. Amrita Lal Chatterjee.
...for the State.
Ms. Koyeli Bhattacharyya,
Mr. Subhrangsu Panda.
... for KMC.
Ms. Tina Bhattacharya,
Mr. Driptamoy Talukdar.
Mr. Debjyoti Karmakar
... for the Respondent No.10.

The matter relates to alleged unauthorised construction at premises no.30, Bediadanga Masjid Bari Bye Lane, Ward No.67, Borough-VII, Kolkata Municipal Corporation.

The petitioner relies upon a communication dated 29th June, 2022 supplied under the Right to Information Act, intimating the petitioner that as per available office record there is no sanctioned plan at the subject premises.

The petitioner alleges that construction was being made by the private respondent without any sanctioned plan.

Learned advocate representing the respondent no.10 at whose instance the construction is being made relies upon a communication made on 29th July, 2022 intimating that there is a sanctioned building plan for construction of three storied residential building of height ten meter vide building permit No.2021070035 dated 19th July, 2021. It has been submitted that construction has been made in accordance with the plan sanctioned.

Learned advocate representing Kolkata Municipal Corporation submits that the initial information provided to the petitioner under the Right to Information Act is an erroneous one.

The petitioner has been intimated by a further communication dated 29th June, 2022 that after searching records it has been found that there is a sanctioned plan for construction of three storied residential building at the subject premises.

The Engineers of the Kolkata Municipal Corporation have submitted a report before this Court mentioning that the Department inspected the site and found that the person responsible has constructed a two storied RCC framed building and erected columns and wooden shuttering over it encroaching mandatory open space horizontally up to first floor level on all sides which is in deviation from the plan sanctioned.

The department has issued stop work notice and intimation has been sent to the Officer-in-Charge, Kasba Police Station in July, 2022. Proceeding under Section 400(1) of the Kolkata Municipal Corporation Act, 1980 has been initiated.

It appears from the instruction provided by the engineers of the Corporation that there is deviation at the time of making construction by the private respondent and proceeding under Section 400(1) of the Act, 1980 has been initiated.

Accordingly, the concerned authority of the Kolkata Municipal Corporation is directed to conclude the proceeding initiated to deal with the unauthorised construction strictly in accordance with law, at the earliest after giving reasonable opportunity of hearing to the petitioner as well as all other necessary parties. The respondent authority shall ensure that the proceeding is concluded positively within a period of twelve weeks from the date of communication of this order.

Instruction provided by the engineers of the Kolkata Municipal Corporation be retained with the records.

Affidavit in opposition filed on behalf of the respondent no.10 be retained with the records.

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.)