

Item No. 352

22.07.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 16308 of 2022

Bijit Das

v.

The Kolkata Municipal Corporatinon & Ors.

Mr. Subir Sanyal
Mr. Biswajit Ghosh
Mr. Avirup Chatterjee
Mr. Soumo Roy
... for the petitioner.

Mr. Jahar Dutta
Mr. Bipin Ghosh
... for the State.

Mr. Subhrangsu Panda
Mr. Ina Bhattacharyya
... for KMC.

The petitioner is aggrieved by the action on the part of the Kolkata Municipal Corporation allegedly threatening the petitioner for demolition of the unauathorized construction at the first floor upto the lintel level brick wall made without any sanctioned plan.

The notice under Section 401 of the Kolkata Municipal Act, 1980 was issued to the person responsible named Lalu Das. The notice under Section 401(1) of the Kolkata Municipal Corporation has been issued by the Assistant Engineer (Civil), KMC, Building Department, Borough No. XVI to the Officer-in-Charge, Haridebpur Police Station to take follow up action for

prevention of the unauthorized construction of the aforesaid premises.

The petitioner submits that the local police station has handed over a notice to the petitioner intimating that a demolition programme of the unauthorized construction has been fixed on July 23, 2022.

It has been submitted that the proceeding for demolition has not yet commenced and accordingly the order of demolition cannot be passed by the Kolkata Municipal Corporation.

It appears from records that all the notices were issued in the name of the person responsible Lalu Das.

The petitioner claims that he is Bijit Das carrying on business at 262, Diamond Harbour Road. The petitioner has a valid enlistment certificate in his favour. Electricity connection has also been issued in his name.

According to the petitioner he is not aware of the person whose name is reflected in the stop work notice under Section 401(1) of the Kolkata Municipal Corporation Act i.e. Lalu Das.

Learned advocate representing the Kolkata Municipal Corporation submits, upon instruction that, on departmental inspection it was observed that construction of one additional floor was going on over a single storied building without any sanctioned plan. A stop work notice was issued and intimation was given to

the local police. Despite the stop work notice the person responsible went on making the unauthorized construction.

The Kolkata Municipal Corporation has prepared a detailed report and placed the same before the higher authority for taking action under Section 400 of the Kolkata Municipal Corporation Act.

It is categorically submitted that as on date there is no order of demolition of the unauthorized construction that has been made by the person responsible at the aforesaid premises.

Learned advocate representing the State respondents has obtained specific instruction from the police that the petitioner was handed over a copy of the communication even though the name of the petitioner is Bijit Das because in the course of investigation on local enquiry it was learnt that Mr. Lalu Das and Mr. Bijit Das is the same identical person. Notice under Section 41 Cr.P.C. was served to the petitioner.

From the aforesaid instruction received by the respondent authorities it appears that the apprehension of the petitioner that the demolition work will be initiated in respect of his premises is not substantiated. The proceeding for demolition of unauthorized construction is pending consideration at the end of the Corporation and the order of demolition is yet to be passed.

In view of the above, there is no need to interfere with the writ petition at this stage.

The writ petition fails and is hereby dismissed.

Supplementary affidavit filed in Court today is taken on record.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)