

**02.12.2022**

**Srimanta**

**Sl. No. 14**

**Ct. No. 24**

***WPA/16557/2022***

***Neelam Akhtayar @ Saima Wasim***

***-Vs.-***

***The State of West Bengal & Ors.***

Mr. Shataroop Purokayastha, Adv.,

Ms. Jagriti Bhattacharya, Adv.

...for the petitioner.

Mr. Ziaul Islam, Adv.,

Mr. K. Rahaman, Adv., Adv.

...for the State.

Mr. Fazlul Haque, Adv.,

Mr. Badal Saha, Adv.

...for the Kolkata Municipal Corporation.

The petitioner complains of illegal and unauthorized construction at premises no. B/18/1B/H/2, Moulana Md. Ali Road, Ward No. 77, Borough – IX under the jurisdiction of the Kolkata Municipal Corporation.

According to the petitioner, construction is being made at the behest of the private respondents without a proper sanctioned plan and in deviation of the plan sanctioned. The petitioner complains that objection filed against such unauthorized construction has not been taken up for consideration till date.

None appears on behalf of the private respondents.

The Executive Engineer (Civil), Building Department, Borough – IX has forwarded a report to this Court wherefrom it appears that on receiving the complaint, the Department inspected the subject premises in April, 2022 and found that illegal construction of the third floor was going on without any sanctioned plan from Kolkata Municipal Corporation. Notice under Section 401 of the Kolkata

Municipal Corporation Act, 1980 dated 18<sup>th</sup> April, 2022 was issued upon the persons responsible for making construction with intimation to the Ekbalpur Police Station. FIR was lodged against the persons responsible before the Ekbalpur Police Station on 25<sup>th</sup> November, 2022. The case is presently under process under Section 400(1) of the Kolkata Municipal Corporation Act, 1980.

From the instruction received by the Executive Engineer it appears that indeed unauthorized and illegal construction is going on at the subject premises.

Learned Advocate for the petitioner submits that despite the stop work notice, unauthorized construction is going on in full swing.

In view of the above, the instant writ petition is disposed of by directing the respondent no. 2 being the Municipal Commissioner or his delegate to take steps in accordance with law to deal with the unauthorized construction after giving reasonable opportunity of hearing to all the necessary parties. Endeavour shall be taken by the aforesaid respondent to conclude the proceeding at the earliest but positively within a period of 12(twelve) weeks from the date of communication of this order.

Writ petition stands disposed of.

Instruction given by the Executive Engineer (Civil), Building Department, Borough – IX signed on 30<sup>th</sup> November, 2022 be retained with the records.

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

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

**(Amrita Sinha, J.)**