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30.09.2022
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 17510 of 2022

**Pushpa Goenka & Ors.
-versus
Kolkata Municipal Corporation & Ors.**

**Mr. Tulsi Das Roy,
Mr. Tapan Kumar Roy,
Mr. K.D. Singh.
...For the Petitioners.**

**Mr. Subrata Ghosh,
Mr. Benazir Ahmed.
... For the State**

**Mr. Tapan Coomaar Dey.
...For KMC**

**Mr. K. Banerjee,
Ms. Sanchari Chakraborty.
... For the private respondent**

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

The matter relates to the unauthorized construction of additional floor in the premises no. 31, Lala Rajpat Rai Sarani, Ward No. 70, Borough-VIII under the jurisdiction of Kolkata Municipal Corporation.

The petitioners claim that a building plan was sanctioned for making construction of G+6 storied building.

The petitioners complain that the representation filed against such unauthorized construction has not been taken up consideration till date.

Learned advocate appearing for the private respondent denies the submission of the petitioner. It has been submitted that no additional floor has been constructed.

Learned advocate appearing for the Kolkata Municipal Corporation has received instructions from the Assistant Engineer and the Executive Engineer (Civil) Building Department, Borough-VIII on 23rd September, 2022 mentioning that the Corporation sanctioned plan for construction of a G+6 storied mercantile building at the said premises. Completion certificate was issued in the year 2014.

The private respondent constructed one additional floor (seventh floor) in portion, in deviation of the sanctioned plan as well as in deviation of the completion plan.

Steps have been taken under Section 401 of the KMC Act, 1980 and FIR has been lodged before the Bhawanipur Police Station.

The case is under process under Section 400(1) of the KMC Act, 1980 and the area of the unauthorized construction is 105.26 Sq.m.

As it appears from the information received from the Kolkata Municipal Corporation that steps are being taken for demolition of the unauthorized construction, accordingly the Executive Engineer of the concerned

Borough is directed to proceed with the same, strictly in accordance with law, after giving a reasonable opportunity of hearing to the petitioners and all other necessary parties and a formal reasoned order be passed within a period of twelve weeks from the date communication of a copy of this order and communicated to all the necessary parties immediately thereafter.

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

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

The writ petition stands disposed of.

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

(Amrita Sinha, J.)