

WPA 18916 of 2021

**Saraswati Ghosh
versus
The Kolkata Municipal Corporation & Ors.**

Mr. Tanmoy Mukherjee
Mr. Souvik Das
Mr. Rudranil Das

... for the petitioner

Mr. Pradyut Kumar Nandi
Ms. Anjana Sengputa

... for respondent No. 9

Mr. Narayan Ch. Bhattacharyya
Ms. Sujata Ghosh

... for the State

The petitioner alleges inaction on the part of the Kolkata Municipal Corporation in taking further steps to the notice issued under Section 400 of the Kolkata Municipal Corporation Act, 1980 in respect of unauthorized construction carried on by Jyotsna Roy, respondent No. 9 at the premises No. 11C, Malanga Lane, Borough VI.

It appears that by a notice dated 04.08.2021, the person responsible was required to demolish the construction of one small toilet in the 2nd floor of premises No. 11C, Malanga Lane or to show cause within a week why such erection should not be demolished as the same was constructed without obtaining sanction from the Corporation.

Learned counsel for the respondent No. 9, the person responsible, submits that hearing was conducted by the Special Officer (Building) on several occasions. The order passed by the Special Officer (Building) on 28.10.2021 has been placed before this Court.

It appears therefrom that the Special Officer (Building) heard the person responsible as well as the complainant and upon perusal of the inspection report passed order of retention of the toilet on payment of fees.

Learned counsel representing the person responsible submits that a sum of Rs. 3803.00/- has been deposited by the person responsible on account of regularization fees of the unauthorized construction and a receipt was issued by the Building Department of Kolkata Municipal Corporation on 01.06.2022.

The order of the Special Officer (Building) mentions that any person aggrieved by the order under Section 400(1) of the Act may appeal before the Municipal Building Tribunal within the stipulated time.

Learned counsel for the petitioner submits that the order of the Special Officer (Building) was never communicated to the petitioner and, accordingly, no further steps could be taken for challenging the same.

As the unauthorized construction has already been permitted to be retained by the Special Officer (Building) accordingly, the prayer of the petitioner for implementation for the order of demolition cannot be accepted.

Let a copy of the order of the Special Officer (Building) be handed over to the learned counsel for the petitioner for taking necessary steps in the matter in accordance with law, if so advised.

The writ petition stands disposed of.

Affidavit of service filed in Court is taken on record.

The order passed by the Special Officer (Building) dated 28.10.2021 and the receipt showing payment of regularization charges be retained with the records.

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

(Amrita Sinha, J.)