

Sl. No.17
04.11.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 18627 of 2022

Mrinal Kanti Majumdar & Anr.
v.
The State of West Bengal & Ors.

Mr. Tapan Coomar Dey
Ms. Shreya Chatterjee

... for the petitioner

Mr. Barin Banerjee
Mr. Abhishek Sikdar
Mr. Saheli Dey

... for the Kolkata Municipal Corporation

Mr. Jahar Dutta
Mr. Bipin Ghosh

... for the State respondents

The petitioner complains of illegal and unauthorised construction at the instance of the private respondent.

The private respondents are not represented in Court.

Affidavit of service shows service upon the private respondent no.9 only.

There is no proof of service upon the respondent nos. 10 to 17.

Learned advocate representing the Kolkata Municipal Corporation has produced document to show that notice under Section 401 of the Kolkata Municipal

Corporation Act, 1980 has been served upon the persons responsible for making unauthorised construction at premises no.27B, Radha Madhab Dutta Garden Lane, Ward No.33, Borough-III, Kolkata and the construction is being made in deviation of the plan sanctioned.

The Executive Engineer has filed a report before this Court signed on 10th September, 2022 mentioning that construction has been made by encroaching the mandatory side open spaces and in deviation of the plan sanctioned. Police has been intimated to ensure that no further construction is made.

The police report filed in Court today mentions that upon physical inspection, constructional work was found to be carried out in the fifth floor of the existing old four storied building.

As it appears that the Corporation has taken steps to issue the stop work notice and is of the opinion that the construction is being made by encroaching mandatory side open spaces and in deviation of the sanctioned plan, accordingly, the concerned Executive Engineer is directed to take steps to deal with such unauthorised construction strictly in accordance with law, after giving reasonable opportunity of hearing to all the necessary parties.

Steps shall be taken in the matter at the earliest, but positively within a period of twelve weeks from the date of communication of this order.

The writ petition stands disposed of.

Instruction given by the Executive Engineer and the Officer-in-Charge, Beliaghata Police Station 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.)