

Item No. 33

7.11.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 20561 of 2022
Sk. Kader Ali

v.

The State of West Bengal & Ors.

Mr. Wasim Ahmed
Md. Kashif
Mr. Pritam Chakraborty
... for the petitioner.

Mr. Subhabrata Datta
Mr. Subhabrata Das
... for the State.

Mr. Srijan Nayek
Mr. Dwijadas Chakraborty
... for KMC.

The petitioner complains of illegal and unauthorized construction at the premises no. 50, Beck Bagan Row, Ward No. 69, Borough No. VIII, Kolkata-700 017. The petitioner alleges that no steps have been taken by the Corporation despite the complaint lodged against the illegal construction.

Learned advocate representing the Kolkata Municipal Corporation has filed a report before this Court signed by the Assistant Engineer (Civil)/Br. No. VIII and Executive Engineer (Civil)/Br No. VIII dated September 19, 2022. The said report mentions that the site was inspected by the building department and it was found that two additional floors with RCC frame structure over the sanctioned G+4 storied residential building have been constructed in deviation from the sanctioned building plan.

Notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 has been served on the persons responsible on June 8, 2022 with intimation to the police on June 9, 2022. Further inspection was conducted and it was noticed that construction work was continuing despite stop work notice. Action under Section 401(A) of the act has been taken. Round the clock police has been posted in accordance with Section 401(4) of the Kolkata Municipal Corporation Act, 1980. Proceeding under Section 400 of the Kolkata Municipal Corporation Act, 1980 has already been initiated.

None appears on behalf of the persons responsible, despite service.

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

As it appears that the Corporation has already taken steps under Section 400 of the Kolkata Municipal Corporation Act, 1980, accordingly the present writ petition is disposed of by directing the respondent no. 3 or his authorized representative to take steps to conclude the proceeding initiated to deal with the unauthorized construction strictly in accordance with law, after giving reasonable opportunity of hearing to all the necessary parties, at the earliest but positively within a period of twelve weeks from the date of communication of a copy of this order.

The aforesaid respondent shall pass a reasoned order and communicate the same to the parties immediately thereafter.

The concerned Engineer of the Kolkata Municipal Corporation shall ensure that no construction is being

made at the said premises till the matter is finally disposed of by the respondent authority.

The Officer-in-Charge, Karaya Police Station is directed to keep strict vigil to ensure that no construction is being made till final order is passed by the Kolkata Municipal Corporation in this regard.

Instruction given by the Kolkata Municipal Corporation 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

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(Amrita Sinha, J.)