

05
18.11.2022
d.p.

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

W.P.A 20525 of 2022

**Nityananda Manna
-versus
The State of West Bengal & Ors.**

**Mr. Salil Kumar Maiti,
Ms. Jayatri Basu Roy.
...For the Petitioner.**

**Mr. Lalit Mohan Mahata,
Mr. Rudranil De.
...For the State.**

**Ms. Koyeli Bhattacharya,
Mr. Sourav Choudhury.
...For KMC.**

**Mr. Purnasish Roy.
...For the Respondent No.15.**

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

None appears on behalf of the respondent Nos. 14, 16 and 17 in spite of service.

The postal envelopes of the respondent Nos. 16 and 17 have returned unserved with the postal endorsement "addressee moved".

The petitioner complains of illegal and unauthorized construction at the instance of the private respondents at the Premises No.T-40A/1A, Hare Kristo

Sett Lane, Ward No.2, Borough-I under the jurisdiction of the Kolkata Municipal Corporation.

The premises in question is a thika property.

The petitioner alleges that pucca construction is being made thereon without taking any permission or sanction from the Kolkata Municipal Corporation.

It is alleged that the complaint filed against such unauthorized construction has not been taken up for consideration till date.

Learned advocate appearing for the respondent No.15 submits, upon instructions, that repairing work was being conducted to make the room habitable. It has been admitted that no permission was obtained prior to conducting the repairing work.

Learned advocate appearing for the Kolkata Municipal Corporation has produced the report from the Assistant Engineer (Civil) Building Department, Borough-I signed on 12th November, 2022.

The report mentions that during inspection it was revealed that unauthorized construction was going on at the said premises without taking any permission from the Corporation. Reinforcement work intending to construct several RCC column at the ground floor was noticed.

To stop the unauthorized construction work, stop work notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 has been issued on the person responsible on 22nd July, 2022 with intimation to the Sinthi Police Station.

The matter is under process under Section 400 of the Kolkata Municipal Corporation Act.

It appears from the submissions made on behalf of all the parties that indeed construction work has been made without obtaining any permission from the Kolkata Municipal Corporation. The same is impermissible in law.

As it appears that the representation of the petitioner objecting to the illegal and unauthorized construction is pending consideration at the end of the respondent authorities, no useful purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the respondent no.7 being the Executive Engineer, (Building Operation), Kolkata Municipal Corporation to consider and dispose of the representation made by the petitioner strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioner within a period of three months from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to all the necessary parties including the petitioner immediately thereafter.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by the petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The petitioner is directed to forward a copy of the representation dated 4th July, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

As unauthorized construction has already been detected, the Officer-in-Charge, Sinthi Police Station is directed to keep strict vigil and ensure that no construction work is carried on at the said premises till the matter is finally decided by the Kolkata Municipal Corporation.

The writ petition stands disposed of.

The police report dated 12th September, 2022 filed in Court today is taken on record.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)