

Sl. No.10
18.11.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 20939 of 2022

Basana Banerjee & Anr.

v.

The Kolkata Municipal Corporation & Ors.

Mr. Sanjoy Bose

Mr. Priyankar Basu Mallick

... for the petitioners.

Mr. Alok Ghosh

Mr. Subhrangsu Panda

... for the Kolkata Municipal Corporation

A complaint was filed against the petitioners alleging illegal and unauthorised construction. The Corporation took steps under Section 401A of the Kolkata Municipal Corporation Act, 1980.

The Municipal Magistrate by judgment dated 15th November, 2019 passed in M.F case No.134 of 2019 convicted the petitioner under Section 248(2) of the Code of Criminal Procedure for the offence punishable under Section 401A of the Kolkata Municipal Corporation Act.

The petitioners submit that since thereafter the Corporation has not taken any steps for demolition of the unauthorised construction. It has been submitted that no notice has been served upon the petitioners in furtherance to the order passed by the Municipal Magistrate.

The petitioners pray for a direction upon the respondent authorities to initiate proceeding against them under Section 400(1) of the Kolkata Municipal Corporation Act, 1980.

Learned advocate representing the Kolkata Municipal Corporation has produced a report before this Court signed by the Assistant Engineer and the Executive Engineer(C)/Br. VIII on 12th September, 2022 which mentions that a building plan was sanctioned in respect of the premises no.53/1, Hazra Road, Ward No.69, Borough-VIII for construction of G+4 storied residential building. The person responsible constructed one additional floor in deviation of the plan sanctioned.

Action under Section 401 followed by action under Section 401A of the Kolkata Municipal Corporation Act, 1980 was undertaken and the case was processed under Section 400 of the Act. The file was placed before the authority and direction has been placed for demolition of the unauthorised construction made in deviation of the plan sanctioned as per provision of Section 400(8) of the Kolkata Municipal Corporation Act, 1980. The demolition work is yet to be executed.

It appears from the aforesaid instruction that order of demolition has already been passed but the demolition is yet to be executed.

The competent authority of the Kolkata Municipal Corporation is directed to proceed with demolition of the unauthorised construction in accordance with law.

The writ petition stands disposed of.

Report filed by the engineers of the Corporation 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.)