

Sl. No.10
16.09.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A 20954 of 2022

Wakil Ahmed & Anr.
Versus
The Kolkata Municipal Corporation & Ors.

Mr. Subhrangsu Panda
Mr. Tirthankar Mukherjee
Ms. Madhurima Sarkar
Mr. Munshi Ashiq Elahi
Ms. Sucheta Pal

... for the Petitioners

Ms. Koyeli Bhattacharyya
Ms. Ina Bhattacharyya

... for Kolkata Municipal Corporation

Mr. Tarique Quasimuddin
Mrs. Zainab Tahur

... for the respondent no.7

The matter relates to premises No.2/1A/H/6,
Nawab Ali Lane, Ward No.78, Borough-IX, Kolkata-700
023.

The petitioner constructed a G+3 storied RCC
framed structure including RCC column and roof slab
shuttering at the 4th floor without obtaining any
sanction plan from the Kolkata Municipal Corporation.

A stop work notice was issued and a notice under
Section 400(1) of the Kolkata Municipal Corporation Act
was issued. The Special Officer (Building) passed order
on 16th December, 2019 for demolition of the
unauthorised construction and the said order of the

Special Officer (Building) was approved by the Mayor on 5th March, 2022.

The person responsible for making construction was directed to self demolish the unauthorised structure and on failure to do so notice under Sections 544 and 546 of the Kolkata Municipal Corporation Act has been issued on 26th August, 2022 and the date of demolition has been fixed on 13th September, 2022.

According to the petitioners, the order of demolition was not served upon the person responsible for making construction and as such they were not in a position to defend the same.

It appears from the order passed by the Special Officer (Building) that the learned advocate representing the person responsible for making construction was present at the time of hearing.

An earlier writ petition was filed by the complainant/ private respondent Hasib Alam being WP 2170 (W) of 2019 and this Court passed order on 7th March, 2019 directing the Corporation to initiate proceeding under Section 400 and to conclude the same within a stipulated time period.

The order of the Special Officer (Building) was communicated to the petitioner by a communicating letter dated 13th June, 2022. Notice under Sections 544, 546 of the Kolkata Municipal Corporation Act, 1980 was issued on 26th August, 2022.

Learned advocate appearing on behalf of the petitioners candidly submits before this Court that the construction has been made without obtaining any sanction plan from the Kolkata Municipal Corporation.

The Kolkata Municipal Corporation Act bars construction without obtaining a sanctioned plan from the Corporation. The petitioners took the risk of constructing a G+3 storied RCC framed structure with column and roof slab as well as shuttering without obtaining any sanction at all.

The act of the petitioners cannot be supported in law. Builders like the petitioners ought not to be shown any leniency while dealing with constructions made unauthorisedly without obtaining any plan sanctioned by the concerned authority. The same will give a premium to unscrupulous builders to make construction without sanction and let out the same to unsuspecting buyers on payment of consideration who may later on be harassed for want of permission to occupy such an unauthorised structure. If the same is not dealt with firmly, the State will be filled with unauthorised constructions in no time.

The petitioner is bound to comply with the order that has been passed by the Kolkata Municipal Corporation and demolish the construction that has been made unauthorisedly.

No relief can be granted to the petitioners in the instant case.

The writ petition fails and is hereby dismissed.

The instruction given by the Kolkata Municipal Corporation signed by Sub Assistant Engineer (Civil), Assistant Engineer (Civil), Executive Engineer (Civil)/Building, Borough-IX dated 15th September, 2022 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.)