

g.b.
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07.07.
2022
Ct. No.24

WPA 19205 of 2019

Sk. Amanatullah
Vs.
State of West Bengal & Ors.

Mr. Golam Mastafa
Mr. Tarasankar Samanta
.....For the Petitioner
Mr. Fazlul Haque
Mr. Jayanta Kr. Dhar
.....For the K. M. C.
Mr. Sayan Ganguly
Ms. K. Chaudhury
.....For the Private Respondent

The matter relates to the premises no. 38/9, Belgachia Road, Ward No. 003, Borough – 1, Kolkata 700 037 under the jurisdiction of the Kolkata Municipal Corporation.

The petitioner alleges unauthorized construction thereon at the instance of the private respondent.

It appears from the documents annexed to the writ petition that a proceeding under Section 400(1) of the KMC Act, 1980 was initiated. The Special Officer (Building), KMC passed an order on 11.04.2019 holding that the construction of 51.68 Sq. mtr. made without obtaining any sanction plan from the Corporation for the purpose of accommodation of the family members of the private respondent can be treated as “minor unauthorized erection or work” as

defined in Rule 3(1)(c) of the KMC (Regularization of Building) Regulations, 2015.

The Special Officer (Building) permitted regularization of the said construction and regularized the same under Rule 4 of the aforesaid Rules, subject to the conditions as mentioned in the said order.

The petitioner did not challenge the order passed by the Special Officer (Building) regularizing the alleged unauthorized construction which was treated as “minor unauthorized erection or work”.

The petitioner has filed the present writ petition for demolition of the said unauthorized construction.

Learned advocate representing the KMC has filed a report signed by the Executive Engineer (C), Building Department, Borough I, KMC dated 28th June, 2022 which mentions that the construction in question is a single storied RCC frame structure building which has been regularized by the order of the Special Officer (Building) and subsequently the same has been approved by the KMC and the regularized plan was issued on 20.08.2019 after taking necessary fees and charges. The report mentions that recently on inspection by the department no new unauthorized construction has been found.

It appears from the submissions made on behalf

of the parties and the documents produced before this Court that the alleged unauthorized construction has already been regularized by the KMC. A regularized plan was also issued way back in 2019. The order of regularizing of the said structure was never challenged by the petitioner.

At this stage, the prayer of the petitioner for demolition of the said structure cannot be accepted.

The writ petition fails and is hereby dismissed.

The report filed by the Executive Engineer (C), Building Department, Borough I., KMC dated 28th June, 2022 is retained with the records.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)

