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09.11.2022
d.p.

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

W.P.A 21437 of 2022

**Shila Basak & Anr.
-versus
Kolkata Municipal Corporation & Ors.**

**Ms. Koyeli Bhattacharyya,
Mr. Sumitava Chakraborty.
...For the Petitioners.**

**Mr. Subhrangsu Panda,
Ms. Ina Bhattacharyya.
...For KMC.**

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

Service upon the private respondent could not be effected allegedly because of insufficient address. The postal article which has come back 'un-served' bears the endorsement 'left'.

The petitioners complain of illegal and unauthorized construction by the respondent No.6 at P-21A, Ram Narayan Pally, Kolkata-700061. Premises No. 87A, Ward No. 128, Borough-14 under the jurisdiction of the Kolkata Municipal Corporation.

Allegation is that construction is being made without leaving the mandatory side open spaces.

The petitioners complain that objection filed against such construction has not been taken up for consideration till date.

Learned advocate appearing for the Kolkata Municipal Corporation is armed with the report signed by the Assistant Engineer (Civil), Boroughs- 13 and 14 mentioning that after searching the office records it was observed that a plan has been sanctioned for construction of two storied residential building at the subject premises vide B.P. No.-2022140092 dated 31st May, 2022.

Departmental inspection revealed that there has been deviation at the time of making construction.

Notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 has been served upon the person responsible with intimation to the concerned police station on 17th September, 2022. Proceeding under Section 400(1) of the Kolkata Municipal Corporation Act, 1980 has also been initiated.

Learned advocate appearing for the petitioners contends that despite the stop work notice issued by the Corporation, the private respondent is merrily carrying on with the construction work.

The petitioners rely upon the communication made under the Right to Information Act wherein it has been mentioned that building plan has not been sanctioned at the subject premises.

Learned advocate appearing for the Corporation, however, submits that the said information was supplied inadvertently and further submits that the

building permit number has been disclosed in the report filed by the Assistant Engineer (Civil) of the concerned borough.

It appears that the instruction provided by the Assistant Engineer disclosing the building permit number is a signatory to the information provided under the Right to Information Act. The Public Information Officer ought to be extremely cautious at the time of supplying information as any wrong information provided by the information officer will amount to laches on his part and will be viewed seriously by the Court.

As it appears that the departmental inspection has revealed that there has been deviation at the time of making construction, accordingly, the Executive Engineer of the concerned borough is directed to take steps to deal with the unauthorized construction strictly in accordance with law, after giving a reasonable opportunity of hearing to all the necessary parties at the earliest, but positively within a period of twelve weeks from the date communication of a copy of this order.

As the departmental inspection reveals deviation, accordingly, the Executive Engineer shall ensure that no further construction is made at the subject premises till the matter is decided by the said authority.

The Officer-in-Charge of the jurisdictional police station is directed to ensure that the stop work notice issued by the Kolkata Municipal Corporation is strictly complied with.

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 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.

(Amrita Sinha, J.)