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28.11.2022
d.p.

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

W.P.A 22652 of 2022

**Ram Prasad Shaw
-versus
The State of West Bengal & Ors.**

**Mr. Shahan Shah,
Mr. Soumen Barman.
...For the Petitioner.**

**Mr. Debjit Mukherjee,
Ms. Susmita Chatterjee.
...For KMC.**

**Mr. Amal Sen,
Mr. Santanu Mitra,
Ms. Rupsha Chakraborty.
...For the State.**

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

None appears on behalf of the private respondents in spite of service.

Leave is granted to the learned advocate-on-record of the petitioner to implead the Executive Engineer (Civil)/Building, Borough-XV, Kolkata Municipal Corporation as party respondent in the instant writ petition.

The formality of serving a copy of the writ petition upon the added respondents stand dispensed with as

the learned advocate has already entered appearance on behalf of the concerned engineer.

The petitioner complains that the respondent Nos. 10 and 11 are making unauthorized construction by filling up the public drain.

The petitioner alleges that the objections filed against such unauthorized construction have not been considered by the Kolkata Municipal Corporation.

Learned advocate appearing for the Kolkata Municipal Corporation has produced instruction from the Executive Engineer (Civil)/Building, Borough-XV signed on 1st November, 2022 mentioning that notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 has been served as the person responsible constructed number of columns upto the height of 2.80mt. approximately and have made foundation work in deviation of the plan sanctioned. Metiabruz Police Station has also been intimated.

It appears from the submissions made by the parties and upon perusal of the instruction produced by the engineer of the Corporation that the notice to stop construction work has been issued but no steps have been taken as yet to deal with the unauthorized construction.

In view of the above, the Executive Engineer of the concerned borough is directed to take steps against the unauthorized construction made by the person responsible strictly in accordance with law, after giving a reasonable opportunity of hearing to all the necessary

parties and pass a reasoned order and communicate the same to all the necessary parties.

An inspection shall be conducted prior to passing a final order in the matter.

Steps shall be taken at the earliest, but positively within a period of twelve weeks from the date of communication of a copy of this order.

The writ petition stands disposed of.

The instruction given by the Executive Engineer, Borough-XV dated 1st November, 2022 be retained with the records.

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

(Amrita Sinha, J.)