

Item No.30

25.11.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 22912 of 2022
Sandip Baksi & Ors.

-vs.-

The State of west Bengal & Ors.

Ms. Moushumi Bhowal
Mr. Asish Dutta
Mr. Arnab Kumar Neogi
... for the petitioners.

Mr. Debdipto Banerjee
Mr. Suman Sankar Chatterjee
... for the respondent no. 7.

Mr. Subhrangsu Panda
Ms. Ina Bhattacharyya
... for KMC.

Ms. Sipra Mazumdar
Mr. Saugata Roy
... for the State.

The matter relates to the Premises No. 8, Sitaram Ghosh Street, Kolkata-700 009 in Ward No. 40 under the jurisdiction of the Kolkata Municipal Corporation.

The petitioner alleges illegal and unauthorized construction in the common area. A complaint was lodged before the Kolkata Municipal Corporation.

The petitioner alleges that the Corporation did not take steps to consider the said objection.

Learned advocate representing the private respondent no. 7 denies the allegation of the petitioners.

Learned advocate representing the Kolkata Municipal Corporation has produced a report before this Court signed by the Sub-Assistant Engineer (C)/ Bldg., Assistant Engineer(C) /Bldg., Executive Engineer (C)/ Bldg./ Br-IV & V wherein it is mentioned that after receiving a telephonic complaint the department caused an inspection and found that the private respondent constructed a brick wall and covered the common passage in the ground floor. The private respondent failed to produce any legal documents in support of the said construction. The department served stop work notice under Section 401 of the Kolkata Municipal Corporation Act with intimation to the Amherst Street Police Station.

On further inspection of the site it was found that construction work continued defying the stop work notice. FIR under Section 401A of the Kolkata Municipal Corporation was lodged before the Amherst Street Police Station. Presently the file is under process under Section 400(1) of the Kolkata Municipal Corporation Act, 1980.

It appears from the report filed by the Corporation that the allegation of unauthorized construction has been found to be correct and the Corporation has taken steps to stop the same. Despite the stop work notice the person responsible is continuing with the construction work.

Accordingly, the Kolkata Municipal Corporation is directed to take steps in accordance with the law to deal with the unauthorized construction.

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

An opportunity of hearing be granted to all the necessary parties prior to passing final order in the matter.

The Officer-in-Charge, Amherst Street Police Station is directed to keep strict vigil over the property to ensure that no construction in any manner whatsoever is carried on at the said premises till the proceeding is finally concluded by the Corporation.

Instruction given by the Engineer of the Kolkata Municipal Corporation be retained with the records.

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

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(Amrita Sinha, J.)