

03. 14.07.2022
BD Ct.15

W.P.A. 23820 of 2018

Nazia Bibi @ Begum

-vs-

The Kolkata Municipal Corporation & Ors.

Mr. S.C. Shrivastava
Mr. Ajoy Pratap Singh

....for the petitioner.

Mr. Ranajit Chatterjee
Mr. Gopal Chandra Das

....for the KMC.

Md. T. Hossain

... for the respondent nos. 8 to 11.

Matter relates to making illegal construction on a thika land. The writ petition is taken up for hearing in presence of the learned advocates representing the petitioner, Kolkata Municipal Corporation and private respondent nos. 8 to 11. During course of hearing attention of this Court has been drawn to an interim order dated 27th April, 2022 passed by Special Officer (Building), Kolkata Municipal Corporation in a demolition proceeding initiated against respondent nos.8 to 11.

Relevant part of the order of the said Special Officer (Building), Kolkata Municipal Corporation is quoted below:

“As stated by the complainant, this is a Thika Lane. A writ petition was filed W.P. No. 23820 (W) of 2018 against the unauthorised construction.

But this writ petition was dismissed for default without any order as to costs on 15.01.2019 P.R. constructed the building without obtaining permission from Controller of Thika without sanction from KMC.

Complainant attended at the time of hearing. But P.R. did not appear on the scheduled dates of hearing. It is informed by complainant that the top floor only shuttering work has done which is not yet casted. Complainant is one of the Thika Tenant. The building is partially occupied. As informed the shuttering work at the top floor (5th floor) is in very unsafe condition. Department is submitted a rough sketch without showing details.

A detailed D/Sketch is required to conclude the proceedings.

In this circumstance I am inclined to pass order as follows:

Part- A

As this is Thika land, a letter may be sent to Controller of Thika Tenancy informing the matter & requesting to inform whether any permission has been issued for erection of building or not and to view in this regard. A detailed D/Sketch is to submitted early. Report regarding the present status at site is needed.

Part-B

To remove the shuttering works at top floor immediately by P.R.

Next date of hearing will be communicated.”

On consideration of the order of the Special Officer (Building), Kolkata Municipal Corporation, this Court thought it proper to ascertain whether pursuant to the said order dated 27th April, 2022 response was obtained from the Controller of Thika Tenancy relating to grant of permission by the said Thika Controller, by the concerned authority of the Kolkata Municipal Corporation. Subsequently, another report has been filed dated 28th June, 2022 prepared by the Assistant Engineer (C) Building Department, Br-IX. KMC, wherein it has been reported that the Thika Cell vide letter dated 26th May, 2022 informed the KMC that no sanction plan/permission was obtained by the private respondents for erection of such construction.

Petitioner in the present writ petition has prayed for demolition of the illegal construction made by the private respondents. This Court has seen the two reports one dated 27th April, 2022 and another dated 28th June, 2022 which prima-facie reveals that construction have been made by the private respondents without any sanction plan

/permission from the concerned authorities.

In view of aforesaid situation, the present writ petition is disposed of by directing the concerned authorities of the Kolkata Municipal Corporation to conclude demolition proceeding in terms of Section 400 of the Kolkata Municipal Corporation Act, 1980, which has already been initiated, within a period of 12 weeks from this date.

With the aforesaid direction the writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)