

17.5 2022
Court No. 19
Item no.14
sn

WPA 10578 of 2020

Shabnam Karim
Vs.
The State of West Bengal & Ors.

Mr. Timir Baran Sahafor the petitioner

Sk. Md. Galib
Ms. Sujata Ghosh ..for the State

Mr. Ranajit Chatterjee
Mr. Subhrangshu Panda ..for the KMC

Let the affidavit-of-service be taken on record.
It appears that service has been effected on the
respondent nos. 10 to 15.

The state respondents have filed a report, from
which it appears that the Officer-in-Charge, Amherst
Street Police Station had intimated the Executive
Engineer, Borough Nos. IV & V about the petitioner's
complaint. Cases were also registered against the
persons responsible, which resulted in the filing of
the charge sheets upon completion of the
investigation.

From the report filed by the Kolkata Municipal
Corporation, it appears that a stop work notice was
already issued by the Corporation some time in
December 20, 2017 and the demolition proceedings
under Section 400 of the Kolkata Municipal
Corporation Act, 1980 have been initiated. It is the

specific report of the Corporation that the work has been suspended.

Although, none appear on behalf of the respondent nos. 10 to 15, this Court is of the view that the writ petition can be disposed of by delegating the entire issue to the Corporation authorities to decide the demolition case in accordance with law. It is not in dispute that the Corporation had already issued a stop work notice and the demolition proceedings have been initiated. While deciding the demolition case, the Corporation authorities shall adhere to the following procedure:-

a) An inspection of the premises shall be conducted. Such inspection shall be held in the presence of the petitioner, the respondent nos. 10-15 and all other interested parties. Advance notice of the inspection shall be served upon the parties and persons interested. If the parties are not available to accept notice, the authorities shall affix the notices of hearing and inspection at conspicuous places in their respective premises.

b) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and was continuing, the authorities may take such interim measures, by stopping such construction.

c) The report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.

d) Such report shall be handed over to the parties.

e) A hearing shall be given to the petitioner and the respondent nos.10-15. The parties must also be allowed to furnish their written objection/version to the said report and adduce oral and documentary evidence in support of their contentions, before the competent authority. All documents relied upon by the respective parties shall be exchanged.

f) A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion in terms of the statute. The question of title, boundary dispute shall not be decided by the municipality.

The court has not gone into the merits of the claims and counter-claims of the parties and the issues involved shall be decided independently.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the learned advocate's communication.

(Shampa Sarkar, J.)