

OD-1

ORDER SHEET

WPO/772/2022

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

PRATAP DEBNATH
VERSUS
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : 9th February, 2022.

[Via Video Conference]

Appearance:
Mr. Partha Sarathi Deb Barman, Adv.
Mr. Amit Gupta, Adv.
For the petitioner.

Mr. Barin Banerjee, Adv.
Mr. Swapan Kumar Debnath, Adv.
For the K.M.C.

The Court :- The petitioner alleges that the petitioner could not respond to the notice issued by the Executive Engineer (Civil/Building), Borough-III of the Kolkata Municipal Corporation dated January 18, 2022 because the said notice was received after the date of hearing. From the notice it appears that the petitioner was asked to appear before the authority on January 25, 2022 at 2:00 p.m. as some unauthorized construction had been detected on premises No. 13A, Motilal Mitra Lane.

Further contention of the petitioner is that the authority proceeded with the hearing without affording adequate opportunity to the petitioner to represent his case. Allegations have been made that the authorities have not provided the sketch map, showing the extent of unauthorized construction.

Such allegations of the petitioner are denied by the learned Advocate for the Kolkata Municipal Corporation. It is further submitted that the next date of hearing had not been fixed and the petitioner was free to attend the hearing on the next date, which shall be intimated to the petitioner.

Having considered the rival contentions of the parties, this Court is of the opinion that the competent authority of the Kolkata Municipal Corporation shall dispose of the demolition case initiated against the petitioner by adhering to the following procedure:-

a] The Corporation shall cause an inspection of the premises in question upon notice to the petitioner.

b] Upon holding the inspection, the Corporation authorities shall prepare an inspection report with the sketch map indicating the nature and extent of the unauthorized construction. Copies of the inspection report and sketch map shall be handed over to the petitioner.

c] Petitioner will be entitled to file his written objection/written version to the said report and also adduce oral and documentary evidence in support of his contention.

d] A reasoned order shall be passed and communicated to the petitioner upon giving an opportunity of hearing.

The petitioner also alleges that an opportunity should be given to the petitioner to pray for regularization of minor deviations.

It is made clear that if any application is filed by the petitioner along with the documents in support of his contentions, the same shall be considered and disposed of simultaneously.

It is also made clear that this Court has not gone into the merits of the claim of the petitioner.

The question of title and encroachment shall not be gone into by the Corporation. The proceedings shall be restricted to the allegations of unauthorized construction.

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

All parties are to act on the basis of the server copy of this order.

(SHAMPA SARKAR, J)