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ORDER SHEET

WPO/805/2022

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SANJAY KUMAR DATTA
Versus
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : 11th February, 2022.

[Via Video Conference]

Appearance:
Mr. Aniruddha Mitra, Adv.
Mr. Gaurav Purkayastha, Adv.
For the petitioner.

Mr. Gopal Chandra Das, Adv.
Mr. Rudranil De, Adv.
For the K.M.C.

Ms. Sucharita Roy, Adv.
For the State.

The Court :- Affidavit of service filed in Court be taken on record.

The police report is also taken on record.

The petitioner is aggrieved by the stop work notice issued under Section 401 of the Kolkata Municipal Corporation Act, 1980 in respect of premises No. 3, Bidhan Sarani, Ward No. 38, Borough No. IV. The said notice was issued by the Assistant Engineer (Civil), Building Department, Borough No.IV of the Kolkata Municipal Corporation.

The first contention of the petitioner is that the said notice was not received by the petitioner from the Corporation, but was served upon the petitioner by the police authorities when the police authorities had gone to inspect the premises on receiving information from the Corporation. The next submission is that the property in question is a debuttar property and some renovation work was being done on the first floor.

The stop work notice indicates that the construction was being made by installing RCC slabs on the ground floor without a sanction plan. However, such finding of the Kolkata Municipal Corporation is disputed by Mr. Mitra and he submits categorically that only repairing work was being carried out on the first floor.

Mr. Das learned Advocate for the Corporation submits that even renovation work could not have been done without proper permission from the Corporation.

Heard the rival contentions of the parties. It appears that pursuant to the 'stop work' notice the petitioner made a detailed representation to the Assistant Engineer (Civil), Building Department, Kolkata Municipal Corporation dated January 27, 2022.

The Corporation is directed to dispose of the representation of the petitioner, in accordance with law, upon hearing the petitioner and any other interested party or complainant. An inspection of the premises shall be made in order to ascertain the nature of renovation allegedly being undertaken by the petitioner. Such inspection shall be made in the

presence of the petitioner and any other person connected with the dispute. Thereafter, a reasoned order shall be passed indicating to the petitioner the compliances and the requirement under the law, which the petitioner would be required to fulfil for undertaking such renovation work.

The Corporation will dispose of the said issues upon taking into consideration all orders passed in any proceeding before any Court or Tribunal which may have been pending or have been disposed of. If unauthorized construction is detected then the law will follow its own course.

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

It is made clear that this Court has not gone into merits of the claims and counter claims of the parties and the entire issue shall be decided independently by the concerned authority.

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

(SHAMPA SARKAR, J)

snn.