

WPO No.394 of 2020
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

MUKTAR ALAM
Vs.
THE STATE OF WEST BENGAL & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 29th June, 2022.

Appearance:
Mr. S. E. Huda, Adv.
Mr. Nayeemuddin Munshi, Adv.
...for Petitioner.

Mr. Ranajit Chatterjee, Adv.
Ms. Manisha Nath, Adv.
...for KMC.

Mrs. Sipra Majumder, Adv.
Mrs. Debarati Sen (Bose), Adv.
...for State.

The Court:-None appears on behalf of the private respondents despite service.

Affidavit of service filed in Court today is taken on record. Affidavit of service shows that the copy of the writ petition has been served upon respondent no.10.

The petitioner alleges illegally and unauthorised construction over the premises no. 65, Madan Mohan Burman Street, Ward-39, Borough-IV under the jurisdiction of the Kolkata Municipal Corporation.

It is the specific contention of the petitioner that construction at the aforesaid premises has been made without obtaining any sanction from the Kolkata Municipal Corporation.

The petitioner has annexed the communication by S.P.I.O. (Building)/Borough-IV & V of the Kolkata Municipal Corporation made under the provision of the R.T.I. Act, 2005 whereby the petitioner has been intimated

that there is no sanctioned plan in respect of the aforesaid premises and after detection of unauthorised construction, department served stop work notice under Section 401 of the Kolkata Municipal Corporation Act and the police has been intimated. F.I.R. has also been lodged against the person responsible and requisition for round the clock police posting sent.

Learned Advocate representing the Kolkata Municipal Corporation has filed a report before this Court signed by the Assistant Engineer (Civil)/Building and the Executive Engineer (Civil)/Building, Borough-IV & V of the Kolkata Municipal Corporation dated 1st December, 2020 wherefrom it appears that the department served stop work notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 on 27th December, 2019. F.I.R. under Section 401A of the Act was lodged on 4th January, 2020. In spite of F.I.R. lodged the person responsible carried out onward unauthorised construction. Additional Commissioner of Police (1), Lal Bazar was forthwith requested by letter dated 14th January, 2020 to impose round the clock police posting. Even thereafter the person responsible continued with the unauthorised construction. A further letter dated 5th February, 2020 was addressed to the Deputy Commissioner of Police, Central Division, Kolkata requesting his intervention for necessary action to stop unauthorised construction.

Report mentions that at present one six storied R.C.C. structure stands at the aforesaid premises which has been constructed without obtaining any prior sanction plan from the Kolkata Municipal Corporation. Demolition proceeding has already been initiated under Section 400 and the same has been placed before the higher authority for necessary orders.

As it appears from the submissions made on behalf of the parties and from the materials produced before this Court that the construction was made at the aforesaid premises without obtaining any sanction plan, accordingly the

Kolkata Municipal Corporation is directed to take prompt necessary steps to demolish the unauthorised construction. Instruction dated 1st December, 2020 provided by the Kolkata Municipal Corporation mentions that the demolition proceeding under Section 400 has been initiated.

The Court is not aware about the present position of the demolition proceeding. The Kolkata Municipal Corporation is directed to take immediate steps for conclusion of the demolition proceeding which has been initiated in the year 2020 at the earliest but positively within a period of twelve weeks from the date of communication of this order. Kolkata Municipal Corporation shall take necessary step in the matter after giving reasonable opportunity of hearing to all the necessary parties. The action taken report by the Kolkata Municipal Corporation be intimated to the parties.

Writ petition stands disposed of.

Instruction given by the Kolkata Municipal Corporation dated 1st December, 2020 be retained with the records.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(AMRITA SINHA, J.)