

WPO No.2125 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

HAMIDUL HAQUE
Vs.
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 16th June, 2022.

Appearance:
Mr. Hamidul Haque.
...Petitioner In Person.

Mr. Ranajit Chatterjee, Adv.
Mr. Aniruddha Mitra, Adv.
...for Private Respondent no. 6.

Mr. Gopal Chandra Das, Adv.
Mr. Debangshu Mondal, Adv.
..for KMC.

The Court:- The petitioner is aggrieved by the notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 issued by the Kolkata Municipal Corporation on 18th April, 2022. By the said notice, the petitioner has been directed to stop construction forthwith including any addition or alteration at the premises No.6, Kasai Para Lane, Ward No.60, Borough-VI, Kolkata-700017 as the same was being made in violation of the condition of sanction.

It is the specific contention of the petitioner that he is not making any construction at the said premises. It has been submitted that the construction that is standing on the said premises is a very old one and the same is already in existence for more than three decades. The petitioner claims he is paying taxes in respect of the said construction before the Kolkata Municipal Corporation.

Learned Advocate representing the respondent no. 6 submits that he is the Mutwali of the said premises. It has been submitted that the construction that is standing on the said premises has been made without obtaining any sanction from the Kolkata Municipal Corporation.

Learned Advocate for the respondent no. 6 relies upon the communication dated 18th May, 2022 made by the Executive Engineer (Civil), Building Department in reply to the query made under the RTI Act which mentions that as per available office record, there is no sanction plan in respect of the premises in question.

Learned Advocate representing the Kolkata Municipal Corporation submits that the Corporation acted on the basis of a complaint which was made by the Mutwali and issued the notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 in favour of the person responsible for making construction.

After hearing the submissions made on behalf of the parties, it appears that lately the petitioner is not making any construction in the said premises. The construction appears to be in existence for quite some time.

In view of the above, the Municipal Commissioner is directed to appoint an Engineer from the Head Office of the Building Department of the Kolkata Municipal Corporation but not from the concerned Borough to make a spot inspection upon prior notice to both the parties, to ascertain the nature of the construction that is standing on the said premises.

If the Corporation is of the opinion that the construction is in existence for quite some time then the concerned authority of the Corporation shall take a

decision as to whether the said construction is required to be removed or may be regularised in accordance with law.

Kolkata Municipal Corporation shall conduct the inspection preferably within a period of four weeks and take a decision in the matter within a fortnight thereafter. The fate of the inspection shall be intimated to both the parties immediately thereafter.

The writ petition stands disposed of.

Affidavit of service filed in Court today is taken on record.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of usual legal formalities.

(AMRITA SINHA, J.)