

ORDER SHEET

WPO 2309 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SMT. BHABANI BHAKTA & ANR.
VS.
COMMISSIONER, KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 14th July, 2022

Mr. M. Thakur, Mr. A. J. Sengupta, Advocates for the
petitioners.

Mr. Alok Kumar Ghosh, Mr. Arijit Dey, Advocates for K.M.C.

Mrs. Sipra Majumder, Ms. Debarati Sen (Bose), Advocates for the State.

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

None appears on behalf of the private respondents despite service.

The matter relates to the premises no. 7D, Abinash Chandra
Banerjee Lane, Ward no. 34, Borough-III under the jurisdiction of the
Kolkata Municipal Corporation.

The petitioner obtained a report from the Consulting Civil Engineer
& Architect and the Licensed Building Surveyor of the Kolkata Municipal
Corporation that the building in question has developed cracks and has

been damaged due to non-maintenance of the same. The Engineer advised that very urgent roof cover with M. S. tubular structure and G. I. sheet is to be provided to prevent rain water effect. The water proofing treatment is to be done in the roof over the existing mother roof laying with two coat of latex, cement slurry and laying 20 MM thick cement sand plaster (1:4) admix high adhesive plastocrate super and proper slopping after removing the existing damaged roof top screet concrete.

The first floor condition is very horrible and in a non-living situation. Ceiling and wall are damaged and re-plaster and recasting with proper technical specification is required. All external and internal sanitation and plumbing hanging, leakage pipes are required to be changed or refixed in stable condition. External and internal wall is to be painted for protection of the building from damp and weather effect.

Relying on the basis of the aforesaid advice from the Licensed Building Surveyor, the petitioners applied on 9th August, 2021 before the Executive Engineer (Civil), Building Department seeking permission to repair the said premises. Intimation was given to the Officer-in-Charge of the Belegkata Police Station on 10th August, 2021.

After the repairing work started a notice was issued under Section 401 of the Kolkata Municipal Corporation Act, 1980 by the Assistant Engineer (Civil), Building Department, Borough-III on 18th May, 2021 directing the petitioners to immediately stop work. The nature of the

unauthorised construction as mentioned in the stop work notice was steel truss structure over the old existing two storied building.

The petitioners rushed to this Court by filing a writ petition being WPA 16807 of 2021. The Court by order dated 8th March, 2022 directed the respondent Corporation to dispose of the proceedings in accordance with law upon granting an opportunity of hearing to the petitioners and upon making an inspection of the premises in question in presence of the petitioners. The Court directed the authority to pass a reasoned order.

In compliance of the direction passed by the Court, an inspection was conducted and thereafter a reasoned order has been passed on 9th June, 2022 by the Executive Engineer (Civil), Building Department, Borough-III, Kolkata Municipal Corporation whereby the petitioners have been directed to demolish the unauthorised steel structure at their own cost.

The petitioners are aggrieved by the same.

According to the petitioners, the condition of the building is extremely dilapidated and unless the necessary repairing work is done the building will be damaged further.

It appears from the documents annexed to the writ petition that the petitioners initiated the repairing work relying upon the advice of an Engineer who also happens to be the Licensed Building Surveyor of the Kolkata Municipal Corporation. Law requires that permission is required to

be taken prior to effecting the construction/renovation/reparing as has been advised. The petitioners without obtaining the necessary permission from the Corporation simply made a representation seeking permission. The Corporation took steps in the matter in accordance with law.

In the event the petitioners are aggrieved by the order passed by the Executive Engineer, it will be open for the petitioners to approach the appropriate forum for remedy.

The petitioners may also seek permission from the concerned authority of the Kolkata Municipal Corporation for effecting the necessary repairs in accordance with law.

The writ petition stands disposed of.

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

(AMRITA SINHA, J.)