

WPO No.2320 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

MINPRA INFRASTRUCTURE INDUSTRIES LTD.
Vs.
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 6th July, 2022.

Appearance:
Mr. Saunok Bhattacharjee, Adv.
Mr. P. Kumar, Adv.
Mr. Lalratan Mondal, Adv.
...for Petitioner.

Mr. Biswajit Mukherjee, Adv.
Mr. Subhrangsu Panda, Adv.
Ms. Ina Bhattacharyya, Adv.
...for KMC.

The Court:-The petitioner is aggrieved by the notice dated 4th July, 2022 issued under Sections 544 and 546 of the Kolkata Municipal Corporation Act, 1980. The date of demolition of the alleged unauthorized construction in the premises No.4A, Raghunandan Lane within Ward-21, Borough-IV, P.S.-Jorabagan, Kolkata-700006 is fixed today i.e. 6th July, 2022 at 12 noon.

The specific contention of the petitioner is that the petitioner Company is the developer of the property in question and construction is being made on the basis of a plan sanctioned by the Kolkata Municipal Corporation.

It has been submitted that no proceeding was initiated in accordance with the provision of law prior to issuance of the demolition order. The petitioner was never served with any prior notice of the demolition. The impugned notice dated 4th July, 2022 was not served to the petitioner but was pasted on the wall of the building.

Learned Advocate representing the Kolkata Municipal Corporation submits that the demolition order was passed only because the petitioner failed to comply with the direction issued in favour of the petitioner in accordance with the provisions of Sections 401 and 401(A) of the Kolkata Municipal Corporation Act, 1980. It has been submitted that prior notices were duly issued in favour of the petitioner.

The copy of the show cause notice issued under Section 400(1) of the Act dated 9th June, 2022 has been handed over in Court. It appears therefrom there is no proof of service of the said letter upon the person responsible for making construction. However, there is a postal receipt showing sending the said notice to Chandra Raj Bhandari, the petitioner herein on 10th June, 2022.

The plan sanctioned by the Kolkata Municipal Corporation in respect of the said premises has been produced in Court. The plan is valid as on date. It has been submitted by the Corporation that there are deviations in the construction made by the petitioner.

As the Court is not convinced with the service of prior notice of the order of demolition upon the person responsible for making construction, accordingly, the Court restrains the men and agents of the Kolkata Municipal Corporation to proceed any further with the impugned order of demolition dated 4th July, 2022.

The Kolkata Municipal Corporation is directed to afford an opportunity of hearing to the petitioner to produce relevant documents in support of the construction that is being made at the aforesaid premises.

In the event, the petitioner fails to comply with the notice that may be issued in favour of the petitioner, then the Corporation will be at liberty to

proceed against the petitioner being the person responsible for making construction, in accordance with law.

As the writ petition is being disposed of without calling for any affidavits, allegations made therein are deemed not to have been admitted by the respondents.

A copy of the show cause notice under Sections 400(1) of the Kolkata Municipal Corporation Act, 1980 dated 9th June, 2022 issued by the Executive Engineer (Civil/Building), Borough-IV & V has been handed over to the learned Advocate appearing on behalf of the petitioner in Court today.

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.)