

ORDER SHEET
WPO/2596/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

MD. EHTESHAM UDDIN
VS
KOLKATA MUNICIPAL CORPORATION AND ORS

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date : 20th September, 2022.

Appearance:
Mr. Sarban Bhattacharjee, Adv.
...For the Petitioner

Mr. Ranajit Chatterjee, Adv.
Ms. Piyali Sengupta, Adv.
...For KMC

Mr. Debjit Mukherjee, Adv.
Ms. Susmita Chatterjee, Adv.
...For the State

Mr. Farooque Ali, Adv.
Mr. Afsar Ali, Adv.
...For Respondent no. 10

The Court: Petitioner alleges illegal and unauthorised construction at the premises No. 166/H/79, Keshab Chandra Sen Street, Borough-V, Ward No. 37, Police Station – Amherst Street, Kolkata – 700009 under the jurisdiction of the Kolkata Municipal Corporation.

According to the petitioner, the respondent no. 10, Md. Shakeel alias Bombayai is responsible for making the said unauthorised construction.

Learned advocate representing the respondent no. 10 denies the aforesaid submission of the petitioner and submits before this Court

that the respondent no. 10 is no way responsible for making the said construction.

The petitioner complains that the representation filed before the Kolkata Municipal Corporation alleging such illegal and unauthorised construction has not been taken into consideration till date.

Learned advocate representing Kolkata Municipal Corporation has filed report before this Court signed by the Sub-Assistant Engineer, Assistant Engineer and Executive Engineer (Civil)/Building/Borough – IV & V dated 19th September, 2022 wherein it has been mentioned that on the basis of telephonic complaint the department caused spot inspection on 8th July, 2022.

During inspection it was revealed that unauthorised construction was being made without any approval of the Kolkata Municipal Corporation. The person responsible for making construction could not produce any valid document in support of such construction. The department served stop work notice under Section 401 of the KMC Act and also intimated the Amherst Street Police Station. The department has already initiated proceedings under the suitable sub-section of Section 400 of the KMC Act to deal with such unauthorised construction.

As it appears from the report filed by the Kolkata Municipal Corporation that there is indeed illegal and unauthorised construction in the said premises, accordingly, the instant writ petition is disposed of by directing the Kolkata Municipal Corporation to take steps strictly in accordance with law to deal with such unauthorised construction.

All steps in the matter shall be taken after giving a reasonable opportunity of hearing to the petitioner as well as the person(s) responsible for making such unauthorised construction. The Corporation shall take necessary steps to conclude the proceedings at the earliest, but positively within a period of three months from the date of communication of this order.

The Officer-in-Charge, Amherst Street Police Station is directed to keep strict vigil in respect of the premises in question and to ensure that no construction is made in the said premises till a decision is taken by the Kolkata Municipal Corporation in this regard.

The writ petition being WPO/2596/2022 is disposed of.

The report dated 19th September, 2022 filed by the Kolkata Municipal Corporation be retained with the records.

Leave granted to the learned advocate-on-record of the petitioner to correct the designation of the respondent no. 5 in the cause title of the writ petition. The correct description of the respondent no. 5 will be the Executive Engineer (Civil)/Building/Borough – IV & V.

Affidavit of service filed in Court be taken on record.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

(AMRITA SINHA, J.)