

ORDER SHEET

WPO 2608 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

DEBNATH GANGULY
VS.
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date: 28th September, 2022

Mr. Debnath Ganguly, petitioner appears in person.

Mr. Alak Kumar Ghosh, Mr. Subhrangsu Panda, Advocates for KMC.

Mr. Amitava Pain, Mr. Partha Pratim Mukhopadhyay, Mr. Nilmoni Das,
Advocates for respondent nos. 6 & 7.

Ms. Nilofer Siddique Alam, Advocate for the State.

The Court : As per the order passed by this Court, the petitioner and his representative, the private respondents as well as the learned advocate representing the Kolkata Municipal Corporation were present at the time of inspection held on 24th September, 2022. It was found that the private respondents casted R.C.C slab measuring 5.80 meter X 1.20 meter in lieu of 3.80 meter X 1.10 meter over the roof of the two storied building which is in deviation of the sanctioned plan. The department is initiating proceeding under Section 400 of the KMC Act, 1980.

The petitioner appearing in person submits that the private respondents have obtained the sanction plan upon total suppression and misrepresentation of facts. Leave has been sought to apply before the Corporation for cancellation of the plan that has been sanctioned.

It will be open for the petitioner to make appropriate application before the Corporation highlighting his grievances. In the event such a representation is made, the same shall be considered by the concerned authority of the Kolkata Municipal Corporation in accordance with law after giving reasonable opportunity of hearing to the petitioner as well as the private respondents. Steps shall be taken in the matter, at the earliest, but positively within a period of eight weeks from the date of filing the representation. A reasoned order be passed and communicated to the petitioner.

In view of the facts which were revealed at the time of joint inspection, the department will be at liberty to take appropriate steps to deal with the unauthorised construction.

The Municipal Commissioner or his delegate shall decide the issue of obtaining the sanctioned plan upon misrepresentation and suppression and the fact of dealing with the unauthorised construction simultaneously so that there is no conflict in the orders passed.

As the department has already come to a finding that there has been deviation, accordingly, the private respondents are restrained from

making any further construction till a decision is taken in the matter by the Municipal Commissioner or his delegate.

The Officer-in-Charge, Girish Park Police Station shall keep strict vigil over the property so that no construction is made in the said premises till further permission is granted by the Kolkata Municipal Corporation in this regard.

The report filed by the Officer-in-Charge, Girish Park Police Station be retained with the records.

The instruction given by the Executive Engineer (C)/Building/ Borough-IV & V dated 27th September, 2022 be retained with the records.

The writ petition stands disposed of.

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

(AMRITA SINHA, J.)