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ORDER SHEET
WPO No.2957 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SUDAM CHANDRA MALAKAR
-VS-
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date : 8th December, 2022.

Appearance:
Mr. Debnath Ganguly, Adv.
Mr. Aranya Saha, Adv.
Ms. Aishwarya Pratihar Ganguly, Adv.
Mr. Supriyo Dutta, Adv.
...for the Petitioner.

Mr. Alak Kr. Ghosh, Adv.
Mrs. Sima Chakraborty, Adv.
...for the KMC.

The Court:- The matter relates to unauthorized construction carried on in premises nos. 25 and 27, Dr. Narayan Roy Sarani, P.S. –Girish Park, Post Office- Beadon Street, Ward-25, Borough –IV, Kolkata-700 006 under the jurisdiction of the Kolkata Municipal Corporation.

The petitioner being the complainant lodged complaint of unauthorized construction in respect of both the premises.

The Special Officer (Building) of the Kolkata Municipal Corporation issued notice of hearing in respect of only the premises no.27, Dr. Narayan Roy Sarani, Ward-25, Borough–IV, Kolkata-700 006 but no separate notice was issued in respect of the premises no.25, Dr. Narayan Roy Sarani, Ward-25, Borough –IV, Kolkata-700 006.

Hearing stood concluded and an order of demolition was passed on 26th July, 2022 in respect of the premises no.27, Dr. Narayan Roy Sarani, Ward-25, Borough –IV, Kolkata-700 006. No order was passed in respect of the premises no.25, Dr. Narayan Roy Sarani, Ward-25, Borough –IV, Kolkata-700 006.

The petitioner submits that the aforesaid two premises number has been allotted in respect of a single premises. Initially, both the premises were different with two separate premises number. Later, the premises stood amalgamated and the owner is the same in both the premises.

A report was called for from the Kolkata Municipal Corporation, wherefrom it appears that the premises was inspected in presence of the owner of the premises. On inspection, it revealed that there is an old three storied residential building and the address mentioned in the main gate of the building is 25, Dr. Narayan Roy Sarani, Kolkata-700 006 and the garage portion in the ground floor was found at 27, Dr. Narayan Roy Sarani, Kolkata-700 006. Ownership of both the premises is same and identical and the building looks like a homogeneous structure. A site plan has been attached with the report filed in Court today.

The Special Officer (Building) of the Kolkata Municipal Corporation has already passed an order of demolition on 26th July, 2022 subject to the approval of the Mayor-in-Council. It has been submitted that as the order of demolition was passed by the Special Officer (Building) of the Kolkata Municipal Corporation, there is no requirement of further approval of the

Mayor-in-Council. Recording that, the order of demolition is subject to the approval of the Mayor-in-Council, was inadvertently made.

As it appears that there are errors in the order passed by the Special Officer (Building) of the Kolkata Municipal Corporation directing demolition of the unauthorized construction, accordingly, Special Officer (Building) of the Kolkata Municipal Corporation is directed to pass fresh order rectifying the errors within four weeks from the date of communication of this order.

Report filed by the engineers of the Kolkata Municipal Corporation is taken on record.

There is no requirement of giving any further hearing to either of the parties as both the parties were duly represented before the Special Officer (Building) of the Kolkata Municipal Corporation at the time of consideration of the demolition proceeding.

Mr. Gopal Kumar Pal, Assistant Engineer (Civil) of the Kolkata Municipal Corporation is present in Court today. His presence is dispensed with.

The writ petition stands disposed of.

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

(AMRITA SINHA, J.)