

OD-7

ORDER SHEET

WPO No. 3109 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SASANKA SEKHAR SETT
Versus
THE KOLKATA MUNICIPAL CORPORATON & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date:12th December, 2022.

Appearance:
Mr. Arif Banerjee, Adv.
Mr. Pujon Chatterjee, Adv.
..for Petitioner.

Mrs. Sima Chakraborty, Adv.
Mrs. Suranjana De Sarkar, Adv.
...for KMC.

Mr. Mrityunjoy Chatterjee, Adv.
Mr. Debapriya Majunder, Adv.
...for Private Respondent Nos.7 to 9 & 14.

The Court:-The matter relates to construction made at the premises No.143, Balaram De Street, Kolkata-700006, Ward No.25, Borough-IV of the Kolkata Municipal Corporation.

The petitioner complains that the private respondents are responsible for making illegal and unauthorized construction at the said premises. It has been submitted that the complaint filed in November, 2022 is yet to be disposed of.

Learned advocate representing the private respondents submits that the construction has been made in accordance with plan sanctioned by the Corporation.

Learned advocate appearing on behalf of the Kolkata Municipal Corporation has filed a report before this Court signed by the Sub-Assistant Engineer(Civil)/Building, Assistant Engineer(Civil)/Building and Executive Engineer(Civil)/Building Department, Borough Nos.-IV & V, Kolkata Municipal Corporation wherein it is mentioned that the subject premises was inspected.

It was found that the person responsible made additional floor by erecting RCC columns, beams, roof-slab and staircase at 4th floor in violation of the building sanctioned plan. The department served stop work notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 in June, 2022 with intimation to the local Police Station.

Demolition case file has already been initiated for proceeding under suitable sub-section of Section 400 of the Kolkata Municipal Corporation Act, 1980.

It appears from the report filed by the Kolkata Municipal Corporation that though the department detected unauthorized construction way back in June, 2022 but apart from issuing a notice directing the person responsible to stop construction work, no positive step has yet been taken to deal with the unauthorized construction.

Inaction on the part of the department has given a handle to the person responsible to continue with the unauthorized construction. The department in such type of cases ought to act in a time bound manner and not shirk off their responsibility by mere service of a notice to stop unauthorized construction. Till the department rises from their slumber and takes prompt necessary steps to deal with such unauthorized construction,

the builders will never care to follow the law and will continue with such illegal act.

In view of the above, the instant writ petition is disposed of by directing the respondent No.4 being the Executive Engineer (Civil)/ Building Department, Borough-IV, Kolkata Municipal Corporation to take immediate steps to demolish the unauthorized construction in accordance with law after giving a reasonable opportunity of hearing to all the necessary parties.

The aforesaid respondent shall ensure that the proceeding is concluded at the earliest, but positively within a period of twelve weeks from the date of communication of this order. A formal order shall be passed and communicated to the parties immediately thereafter.

As the department has already detected unauthorized construction, Officer-in-Charge of Girish Park Police Station is directed to keep strict vigil over the property to ensure that construction in any manner whatsoever is not carried out at the said premises till conclusion of the demolition case.

The writ petition stands disposed of.

Instruction given by the engineers of the Kolkata Municipal Corporation is taken on record.

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

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

(AMRITA SINHA, J.)