

ORDER SHEET

WPO No. 3186 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

DR. RANJAN KUMAR MITRA
Versus
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 13th December, 2022.

Appearance:

Ms. P. Sen Gupta, Adv.
Mr. S. Mishra, Adv.
Mr. B. Sen, Adv.
..for Petitioner.

Mr. Gopal Chandra Das, Adv.
Ms. Ina Bhattacharyya, Adv.
...for KMC.

Mr. N. Munshi, Adv.
...for Respondent No.8.

Mr. D. Mukherjee, Adv.
Ms. S. Chatterjee, Adv.
..for State.

The Court:- The petitioner seeks for a direction upon the Kolkata Municipal Corporation to complete the demolition procedure initiated under Section 400/400(1) of the Kolkata Municipal Corporation Act, 1980 in respect of the premises No.35B, Kailash Bose Street, P.S.-Amherst Street, Ward No.27, Borough- IV, Kolkata-700006.

The aforesaid Demolition Case being No.88-D/IV/19-20 was initiated in response to a complaint filed by the petitioner.

From the interim order passed by the Special Officer (Building), Kolkata Municipal Corporation on 3rd August, 2020, it appears that

unauthorized construction of RCC column, beam, roof, brick works at 2nd floor and RCC stair case leading from ground floor to 2nd floor has been done without obtaining sanction from the Kolkata Municipal Corporation.

It appears from the said order that though the proceeding was initiated but the same is yet to be concluded. Certain documents were directed to be filed by both the parties.

Learned Advocate appearing for the petitioner submits that the petitioner submitted all the necessary documents before the Corporation on 28th August, 2020.

Special Officer (Building), Kolkata Municipal Corporation who is dealing with the matter is yet to pass final order.

Learned advocate appearing on behalf of the Kolkata Municipal Corporation is yet to receive any instruction in the matter.

Learned Advocate appearing for the private respondent submits, upon instruction that, necessary documents were forwarded to the Special Officer (Building), Kolkata Municipal Corporation through post.

From the submissions made on behalf of all the parties and upon perusal of the documents annexed to the writ petition, it appears that the demolition proceeding initiated way back in the year 2019 is yet to be concluded. Petitioner submits that the person responsible for making construction has concluded unauthorized construction in the meantime and has sold off the portion constructed unauthorizedly in favour of third parties.

Special Officer (Building), Kolkata Municipal Corporation dealing with the matter ought to have taken prompt necessary steps for conclusion of the

demolition proceeding as not concluding the proceeding has given a handle to the person responsible to continue with the unauthorized construction and thereafter sell off the same in favour of unsuspecting buyer(s). Complaints of unauthorised construction ought to be dealt with on urgent basis so that the illegal work may be stopped the moment the same is detected and brought to the notice of the Corporation, failing which the builders will get a premium to continue with the unauthorised work in deviation of the provision of law.

In view of the above, the instant writ petition is disposed of by directing the competent authority of the Kolkata Municipal Corporation to take immediate steps to conclude the demolition proceeding in accordance with law at the earliest after giving reasonable opportunity of hearing to all the necessary parties.

Endeavour shall be taken to dispose of the matter 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.

The writ petition stands disposed of.

Report dated 12th December, 2022 given by the Officer-in-Charge of Amherst Street Police Station filed in Court today 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.)