

OD-6

ORDER SHEET
WPO No.3192 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

MONORANJAN MONDAL & ORS.

-VS-

THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date: 13th December, 2022.

Appearance:

Mr. Anindya Bose, Adv.
Mr. Amit Gupta, Adv.
Mr. D. Mandal, Adv.
Mr. M. Biswas, Adv.
...for Petitioners.

Mr. Swapan Kr. Debnath, Adv.
Ms. Sabnam De, Adv.
...for KMC.

The Court:- The matter relates to the premises no. B/11/H/3, Mahatma Sisir Kumar Sarani, Ward No.7 under Borough-I of the Kolkata Municipal Corporation. Notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 was issued on 12th October, 2022 directing the person responsible to forthwith stop all construction work including addition and alteration.

The petitioners submit that after issuance of the said notice the Corporation did not take steps to proceed with the same. The petitioners intend to participate in the demolition proceeding, if any, to be initiated by the Kolkata Municipal Corporation.

Learned advocate representing the Kolkata Municipal Corporation submits, upon instruction, that this is a case of unauthorized construction made without taking any permission from the Corporation.

During departmental inspection, it was found that the construction of a single storied RCC framed structured building was going on. Notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 was served upon the person responsible on 12th October, 2022 with intimation to Shyampukur Police Station and FIR was also lodged on the same date.

Further departmental inspection revealed that the person responsible continued the construction work defying the stop work notice issued to him. Further FIR was lodged on 19th October, 2022. File is presently under process under Section 400 of the Kolkata Municipal Corporation Act, 1980.

As it appears that the unauthorized construction has already been detected by the Corporation, accordingly, the instant writ petition is disposed of by directing the Municipal Commissioner or his delegate to take steps consequent to the notice issued under Section 401 of the Kolkata Municipal Corporation Act, 1980 in accordance with the office Circular Nos. 16/2021-22 dated 2nd March, 2022 and 24 dated 8th July, 2021 at the earliest, but positively within a period of twelve weeks from the date of communication of this order.

A reasonable opportunity of hearing shall be granted to the petitioners and all other necessary parties. A formal order shall be passed and communicated to the parties immediately thereafter.

The Officer-in-Charge, Shyampukur Police Station is directed to keep strict vigil over the property to ensure that no construction in any manner whatsoever is carried on at the said premises till conclusion of the proceeding by the Corporation.

The writ petition stands disposed of.

Instruction given by the Executive Engineer (Civil), Building Department, Borough-I, 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.)

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