

ORDER SHEET

WPO/3268/2022

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SAMIR ADHIKARY

-VS-

THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date : December 16, 2022.

Appearance:

Mr. Anindya Bose, Adv.

Mr. Amit Gupta, Adv.

Mr. D. Mondal, Adv.

Mr. Nikhil Kr. Gupta, Adv.

Mr. M. Biswas, Adv.

...for the petitioner

Mr. Swapan Debnath, Adv.

Ms. Susmita Chatterjee, Adv.

...for the KMC

The Court: The matter relates to the premises No.B/5A/H/7, Nayan Krista Saha Lane, Ward No.7, Borough-I under the jurisdiction of the Kolkata Municipal Corporation.

A notice under Section 401 of the KMC Act was issued on 1st November, 2021 directing the person responsible to forthwith stop all construction work including addition and alteration as the same has been commenced without sanction.

The petitioner submits that on receipt of the said notice, all construction work has been stopped. The petitioner prays for a direction upon the Kolkata Municipal Corporation to complete the proceeding.

Learned counsel representing the Kolkata Municipal Corporation submits, upon instruction, from the Executive Engineer (Civil), Building Department, Borough-I that during departmental inspection it was found that

two storied RCC framed structure building along with extension of columns over second floor roof level is going on without sanction.

To stop progress of the construction work, notice under Section 401 of the KMC Act was served on 1st November, 2021 and intimation sent to the police station on the same date. Recent inspection revealed that a four storied building is standing thereon. The matter is under process under Section 400 of the KMC Act.

As it appears that the Corporation has detected illegal and unauthorized construction, accordingly, the concerned Executive Engineer is directed to proceed in accordance with law to deal with such unauthorized construction.

It appears that the inaction on the part of the Corporation to take consequential steps after issuance of the notice under Section 401 has given an opportunity to the persons responsible to raise further construction from the second floor to the fourth floor level. Such inaction on the part of the Corporation cannot be supported in law. Prompt action is required to be taken to deal with unauthorized construction.

The aforesaid respondent is accordingly directed to ensure that the proceeding is completed at the earliest.

The writ petition stands disposed of.

Instruction given by the Executive Engineer signed on 14th December, 2022 and the affidavit of service filed in Court today are taken on record.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(AMRITA SINHA, J.)

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