

Item No.12

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

15.12.2023
Ct-24

WPA 3373 of 2022
Yusuf Khan

v.

The Municipal Commissioners, Kolkata Municipal
Corporation & Ors.

Mr. Kartick Kumar Bhattacharyya
Ms. Soumashree Dutta
Mr. Papiya Naskar
... for the petitioner.

Mr. Sukumar Bhattacharyya
Mr. Oindrila Chatterjee
Mr. Puja Sonkar
... for the respondent no.4.

The petitioner alleges illegal and unauthorized construction at premises no. 49/5/H/138, Karl Marx Sarani, Ward No. 79, Borough-IX of the Kolkata Municipal Corporation.

Allegation is that objection filed against such unauthorized construction has not been disposed of till date.

Learned advocate representing the private respondent denies the allegation of the petitioner.

It has been submitted that there is a plan sanctioned by the Corporation according to which construction was made long back. The structure has duly been assessed by the Corporation and taxes are being paid. It is also submitted that no construction has been made after 2008.

None represents the Kolkata Municipal Corporation.

The notice showing service upon the learned advocate of the Corporation be retained with the records.

The petitioner has produced a document allegedly received from the engineers/officers of the Kolkata Municipal Corporation. The said document is signed by the Assistant Engineer(C), Building Department, Borough-IX, Kolkata Municipal Corporation on February 27, 2023.

It appears therefrom that the department inspected the premises and found that a G+3 storied RCC framed structure has been constructed without any sanction from Kolkata Municipal Corporation. Notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 was issued with intimation to the South Port Police Station. Further inspection revealed that defying the stop work notice, unauthorized construction was going on.

Considering the gravity of the situation and safety of the adjoining structures as well as the safety of the public in general, steps have been taken under Section 401A of the Act. Round the clock police posting has been recommended.

It appears that the Corporation is yet to take a decision with regard to the unauthorized construction that has been detected.

In view of the above, the Executive Engineer(C)/Building, Borough-IX is directed to take prompt necessary steps to conclude the proceeding to deal with the unauthorized construction in accordance

with law at the earliest but positively within a period of twelve weeks from the date of communication of this order after giving an opportunity of hearing to all the necessary parties.

The Corporation is directed to ensure that no unauthorized construction takes place at the subject premises.

The Officer-in-Charge, South Port 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 subject premises till the matter is finally decided by the Corporation.

The private respondent is restrained from selling/transferring, alienating or creating any third party right over the property until further order.

The writ petition stands disposed of.

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

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(Amrita Sinha, J.)