

16-05-2023
Item No.18
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.5014 of 2022
Osman Ali Molla
-vs-
The State of West Bengal & Ors.

Md. Mansoor Alam ...for the petitioner

Mr. Jahar Dutta
Mr. Bipin Ghosh ...for the State

Mr. Subhrangsu Panda
Ms. Ina Bhattacharya ...for the Corporation

Mr. Shagutha Kainat ...for the private respondents

The petitioner complains of illegal and unauthorised construction at the behest of the private respondents – respondents no.12 and 13 of the writ petition – in premises no.Z3-41/1, Dr. A.K. Road, Ward No.141, Borough – XV under jurisdiction of the Kolkata Municipal Corporation.

Learned advocate representing the private respondents submits that the construction in question was made long ago. He further submits that there is a procedure for regularising any unauthorised construction that has already been made; and at present, no construction is being carried out. According to him, the petitioner ought not to have approached this court by invoking the writ jurisdiction.

Learned advocate representing the Kolkata Municipal Corporation has furnished a report signed by the Assistant Engineer (C)/Bldg/Borough XV and the Executive Engineer (C)/Bldg./Borough XV on May 15,

2023; let it be taken on record.

It appears therefrom that on receiving the complaint, the departmental inspection was carried out at the subject premises. During inspection, it has appeared that an old occupied five storied building stand at the subject premises. The building was constructed in accordance with the plan sanctioned in the year 2011, but there has been deviation from the plan in constructing the same. The persons responsible installed telecommunication towers over the fourth floor roof level. The engineers of the Corporation have prepared a demolition sketch and infringement statement to process the case under section 400 of the Kolkata Municipal Corporation Act, 1980.

Upon hearing the respective submissions advanced by the parties and upon perusal of the instructions forwarded by the engineers of the Corporation, it appears that unauthorised construction has indeed been detected.

Accordingly, the Executive Engineer(C)/Bldg./Borough-XV, Kolkata Municipal Corporation, the fourth respondent herein, is directed to take prompt necessary steps dealing with such unauthorised 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 prior to passing the final order in the matter. The reasoned decision once given shall be communicated to all the parties forthwith.

With the above directions, WPA No.5014 of 2022 stands disposed of. No order as to costs.

All parties are to act on the server copy of this order duly downloaded from the official website of this court.

Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]