

Item No.2

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

28.04.2023
Ct-24

WPA 5838 of 2022
Phulbanti Sharma @ Fulmanti Sharma
v.
The Kolkata Municipal Corporation & Ors.

Mr. Anand Keshri
Ms. Sutapa Bose
... for the petitioner.

Mr. Debjit Mukherjee
Mr. Susmita Chatterjee
... for KMC.

Mr. Sounak Bhattacharya
Mr. Sounak Mondal
Mr. Anirban Saha Ray
... for the private respondent.

The petitioner complains of illegal and unauthorized construction at the instance of the private respondent no. 8 at premises no. T62A, Alipore Road, P.S.-Chetla, Kolkata-700 023, Ward No. 74, Borough-IX under the jurisdiction of the Kolkata Municipal Corporation.

The petitioner alleges that despite objection raised, the Corporation is not taking steps in the matter.

Learned advocate representing the private respondent denies the allegation of the petitioner. It has been submitted that the construction has been made in accordance with the plan sanctioned.

Learned advocate representing the Kolkata Municipal Corporation has produced the instruction received from the Assistant Engineer (C), Building

Department, Borough-IX signed on April 30, 2022 which mentions that departmental inspection revealed that a G+2 storied RCC frame structured building has been constructed. The mandatory side open spaces have been illegally encroached and the roof of the 2nd floor has been illegally casted by RCC slab in place of the sanctioned asbestos shed.

A stop work notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 was issued on November 6, 2019 with intimation to the Chetla Police Station.

Learned advocate representing the private respondents submits that the inspection was conducted behind the back of the private respondent.

From the documents produced before this Court it appears that the Corporation detected unauthorized construction.

In view of the above, the respondent no. 6 being the Executive Engineer (C)/Building, Borough-IX is directed to take prompt necessary steps to deal with the unauthorized construction in accordance with law after giving reasonable opportunity of hearing to all the necessary parties and pass a reasoned order and communicate the same to the parties.

Steps shall be taken to conclude the proceeding at the earliest but positively within a period of twelve weeks from the date of communication of this order.

Leave granted to the learned advocate-on-record of the petitioner to correct the description of the respondent no. 6 in the cause title of the writ petition.

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.)