

49
20.02.2023
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 5929 of 2022

**Md. Ibrahim
-versus
The State of West Bengal & Ors.**

**Mr. Malay Singh,
Ms. Neelam Singh.
...For the State.**

**Mr. Tarique Quasimuddin,
Mr. Nasir Quasimuddin.
...For the Respondent
Nos. 14 and 15.**

**Ms. Sanchita Chaudhuri.
...For the Respondent
Nos. 16, 17, 18 & 19.**

**Mr. N.C. Bihani,
Mr. Abhishek Sikdar,
Ms. Sahili Dey.
...For KMC.**

None appears in support of the writ petition.

It appears from the averments made in the writ petition and the documents annexed thereto that the petitioner complains of illegal and unauthorized construction at premises no. T-166, Mitha Talab Lane, Ward No. 138, Borough-XV under the jurisdiction of the Kolkata Municipal Corporation.

The petitioner alleges that the objection filed against such unauthorized construction has not been taken up for consideration.

Learned advocate appearing for the respondent Nos. 14 and 15 submits, upon instructions, that the unauthorized construction has already been demolished by the Corporation. At present there is no unauthorized construction, as alleged.

Learned advocate appearing for the respondent Nos. 16 to 19 submits, upon instructions, that they are no way connected with the subject premises and the construction made thereat.

A report has been filed by the engineers of the Kolkata Municipal Corporation signed on 20th February, 2023.

It appears therefrom that on receiving complaint from the petitioner, a departmental inspection was conducted. Unauthorized construction was detected at the time of inspection.

A stop work notice was served upon the person responsible with intimation to the local police station. The person responsible resumed constructional work defying the stop work notice.

Action under Section 401(A) of the Kolkata Municipal Corporation Act, 1980 was initiated against the person responsible on 2nd August, 2019.

The file was then processed under Section 400(8) of the Kolkata Municipal Corporation Act, 1980 and a demolition programme was carried out. Partial demolition was conducted.

Thereafter, in terms of the order dated 25th January, 2021 in WPA 11042 of 2000 (Nur Jahan & Ors. –vs- The Kolkata Municipal Corporation & Ors.), a hearing was conducted by the Municipal Commissioner and direction was passed for demolishing the unauthorized construction. Copy of the order was communicated to the parties.

Recent inspection revealed that the person responsible did not comply with the order of the Municipal Commissioner dated 16th April, 2021.

The department is taking steps to fix up a demolition programme for demolishing the remaining unauthorized construction.

It appears from the report filed by the engineers of the Corporation that admittedly unauthorized construction has been detected which is required to be demolished.

The Corporation is directed to take steps for fixing up the date of demolition as the person responsible has deliberately failed and neglected to demolish the unauthorized construction as directed by the Municipal Commissioner.

The Corporation shall ensure that the remaining unauthorized construction is positively demolished by twelve weeks.

Learned advocate appearing for the Corporation is directed to communicate this order to the concerned authority for necessary compliance.

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.

(Amrita Sinha, J.)