

01-05-2023
Item No.14
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Constitutional writ Jurisdiction
Appellate Side

WPA No.6544 of 2023
Md. Jamaluddin
-vs-
The Kolkata Municipal Corporation & Ors.

Mr. Prasenjit Saha ...for the petitioner

Mr. N.C. Bihani
Ms. Debangana Dey Nayak ...for the Corporation

Mr. Prabir Kumar Ray ...for the State

The petitioner complains of illegal and unauthorised construction at premises no.39B, Topsia Road (South), Ward No.59, Borough-VII within the jurisdiction of Kolkata Municipal Corporation. Objection filed with regard to the same is yet to be disposed of.

None represents the private respondents despite service. Affidavit of service is taken on record.

Learned advocate representing the Kolkata Municipal Corporation has forwarded a report dated April 17, 2023 before this court signed by the Executive Engineer (Civil)/Building Deptt./Br-VII and Sub-Assistant Engineer (Civil)/Bldg/Br-VII, KMC mentioning that departmental inspection revealed unauthorised construction by extending the RCC column over the existing five-storied building without sanction; and that the department has already issued stop-work notice under section 401 of the Kolkata Municipal Corporation Act, 1980 dated April 5, 2023 and the matter has been informed to the officer in-charge of Topsia police station on the same date.

From the instructions forwarded by the Corporation it appears that unauthorised construction has been detected.

In view of the above, the instant writ petition is disposed of by directing the Executive Engineer (Civil)/Building Department of the Kolkata Municipal Corporation, the sixth respondent herein, to take prompt necessary steps to deal with such unauthorised construction in accordance with law, after giving an opportunity of hearing to the necessary parties, and give a final order in the matter at the earliest, but positively within twelve weeks from the date of communication of this order.

The officer in-charge of Topsia police station is directed to keep strict vigil over the concerned property to ensure that no construction in any manner whatsoever is carried out at the subject premises till the matter is finally decided by the Corporation.

It is made clear that the instant writ petition is being decided only with regard to the issue of unauthorised construction. The petitioner will be at liberty to proceed with the prayer for mutation in a separate proceeding.

Report filed by the officer in-charge of Topsia police station be retained with the record.

The writ petition is thus 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 order.

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

[Amrita Sinha, J.]

