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Ct
No24
AGM

04.07
2023

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

WPA 7477 of 2023

**Tuhin Mukherjee
Vs
Kolkata Municipal Corporation & Ors.**

**Mr. Aritra Basu
Mr. Altamash Alim
Mr. Sumit Biswas
Mr. Rajarshee Bhowmik**

... for the Petitioner.

**Mr. Srijan Nayak
Ms. Sabnam De**

... For the KMC.

This matter relates to certain unauthorised construction at premises no. 439, Kalikapur Road, East End Park, First Row, Kolkata- 700099 under Borough XII of the Kolkata Municipal Corporation.

It appears that the petitioner lodged complaint against unauthorised construction at the subject premises.

On account of inaction on the part of the Corporation to take steps in response to the complaint lodged, the petitioner approached this Court by filing Writ Petition being WPA 5641 of 2022. The said writ petition was disposed of by this Court on 19th May, 2022 directing the Corporation to take steps pursuant to the complaint lodged by the petitioner.

The procedure to be adopted by the Corporation at the time of consideration of the objection of the petitioner was also specified in the said order.

It appears that a spot inspection was conducted but thereafter opportunity of hearing was not given to

the petitioner. The petitioner is aggrieved by the same.

Learned advocate representing the Corporation submits, upon instruction that, a proceeding under Section 400 of the Kolkata Municipal Corporation Act was initiated against the persons responsible for making unauthorised construction. Hearing was fixed on 10th January, 2023 wherein Tuhin Mukherjee, the petitioner herein, was held to be the person responsible for making unauthorized construction and the petitioner was directed to demolish the same.

From the order passed by the Special Officer (Building) on 4th February, 2023 it is clear that the proceeding was brought against Susmita Das, Krishnapada Das and Sutopa Das. The complainant was one Sumit Biswas.

The Special Officer (Building) heard the complainant and the person responsible, but for reasons best known, directed the petitioner herein Tuhin Mukherjee to demolish the unauthorised construction by mentioning that Tuhin Mukherjee is the person responsible for making such unauthorised construction.

There is nothing on record to suggest that Tuhin Mukherjee was afforded an opportunity of hearing prior to passing the order of demolition.

In view of the above, the competent authority of the Kolkata Municipal Corporation is directed to take steps strictly in accordance with the direction passed by this Court on 19th May, 2022 in WPA 5641 of 2022.

The petitioner has annexed in the writ petition the spot inspection report which was forwarded to him. The subsequent procedure laid down in the aforesaid order shall be complied with to take the

complaint lodged by the petitioner to its logical conclusion.

The competent authority of the Corporation shall conclude the entire proceeding within a period of three months from the date of communication of this order.

The competent authority of the Kolkata Municipal Corporation is restrained from taking any coercive steps against the petitioner in terms of the order dated 4th February, 2023 till the matter is disposed of in accordance with the direction passed hereinabove.

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.)