

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

W.P.A 8903 of 2023

**Andrew Francis
-versus
State of West Bengal & Ors.**

**Mr. Ranojoy Chatterjee
Ms. Piyeta Bhattacharjee
...For the Petitioner.**

**Mr. Nayan Chand Bihani
Ms. Sabnam De
... for the K.M.C.**

The petitioner complains of illegal and unauthorised construction at premises no. 50, Alipore Road, Kolkata 700027, Ward No. 74, Borough – IX, under the jurisdiction of KMC.

Allegation is that the private respondent, one Siddhartha Procon Private Limited represented by its Directors Mr. Debasish Das and Ms. Sangita Gupta, are responsible for raising unauthorised construction thereon without obtaining any sanction from the KMC.

The petitioner alleges that objection was filed before the Municipal Commissioner but the same has not been taken up for consideration till date.

None represents the private respondent.

Affidavit-of-service filed today in Court be taken on record.

Learned advocate representing the KMC produces a bunch of documents wherefrom it appears that the Executive Engineer of the concerned borough, in

response to an application made under the Right to Information Act, 2005, intimated the petitioner that as per available records, there is no sanction plan for raising construction over the aforesaid premises.

A notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 was issued upon unknown persons with a direction to immediately stop construction work including addition and alteration in the subject premises.

Intimation was also served by the Assistant Engineer (Civil) (Building), Borough – IX to the Officer-in-Charge of the concerned Police Station.

On perusal of the notice under Section 401 Kolkata Municipal Corporation Act, 1980, it appears that the same was addressed to unknown persons.

The petitioner in the present writ petition has given the details of the persons responsible for making construction.

In view of the above, the Executive Engineer (Civil) (Building), Borough –IX is directed to take necessary steps to deal with the said unauthorised construction in accordance with law after giving a reasonable opportunity of hearing to all the necessary parties.

A spot inspection shall be conducted to ascertain the nature and extent of unauthorized construction.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or

decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by the petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The petitioner is directed to forward a copy of the representation dated 30th March, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

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.)