

Item No.41

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

17.07.2023
Ct-24
AGM

WPA 9843 of 2023
Ravindra Kumar Jaiswal

v.

The State of West Bengal & Ors.

Mr. Mritunjay Saha
... for the petitioner.

Ms. Sangita Jangra
... for the private respondent nos. 9 to 11.

Mr. Barin Banerjee
Mr. Saurav Chaudhuri
... For the KMC.

Mr. Uttam Kumar De
Ms. Ankita Mukherjee
... For the State.

The matter relates to premises no. 237A/1B/3, Satin Sen Sarani, Ward No. 29, Borough – III under the jurisdiction of KMC.

The petitioner alleges illegal and unauthorised construction on the subject premises at the behest of the private respondent. Complaint was lodged before the KMC but the same is alleged to be kept pending.

Learned advocate representing the private respondent submits, upon instruction that, the structure in question was in existence for a considerable period of time.

It has been submitted that a Title Suit is pending consideration between the parties before the learned

Court below. The property in question was allotted to the private respondent in a family settlement arrived at in between the parties.

The allegation of unauthorised construction has been denied by the private respondent.

Learned advocate representing KMC produces written instruction from the Assistant Engineer (Civil)/Building and Executive Engineer (Civil)/Building/Borough – III signed on 7th July, 2023 mentioning that a stop work notice was issued under Section 401 of the KMC Act, 1980 upon the person responsible in October 2022 with intimation to the Narkeldanga Police Station. Show cause under Section 400 (1) of the KMC Act, 1980 was issued and a hearing was fixed.

Demolition order was passed by the Executive Engineer (Civil)/Building/Borough-III on 12th December, 2022.

For compliance of the order of demolition, notice under Sections 544 and 546 of the KMC Act, 1980 was issued to the person responsible and considerable portion of the subject structure was demolished on 4th January, 2023.

It appears that the present writ petition was filed in the month of April, 2023. The petitioner has not mentioned anything about the part demolition which took place in January 2023.

As it appears that the demolition order was passed in December, 2022 the respondent Corporation is liable to be implemented the same in its entirety.

Accordingly, the Executive Engineer of Borough – III is directed to take necessary steps to demolish the remaining unauthorised portion in accordance with the order of demolition passed in the matter.

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

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.)