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30.01.2023
d.p.

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

W.P.A 10900 of 2022

**Sagir Ahmed @ Sagir Baba
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. Ziaul Islam.
...For the Petitioner.**

**Mr. Arijit Dey.
...For KMC.**

**Ms. Joyeeta Sinha,
Mr. Sandip Mandal.
...For the State.**

A report signed by the Assistant Engineer (Civil) and the Executive Engineer (Civil)/Building, Borough-IV and V dated 18th January, 2023 has been produced in Court today. The said report is taken on record.

It appears therefrom that a stop work notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 was served upon the person responsible for making unauthorized construction with intimation to the Narkeldanga Police Station on 29th April, 2022.

On further inspection, it was revealed that the unauthorized construction was continuing despite the issuance of stop work notice. Notice under Section 401A of the Kolkata Municipal Corporation Act, 1980

was issued with intimation to the Narkeldanga Police Station on 5th May, 2022.

Request was made for round-the-clock police posting before the Joint Commissioner of Police, Head Quarter, Lalbazar on 10th May, 2022 and 28th June, 2022.

Presently the case file is being proceeded under suitable Sub-Section of Section 400 of the Kolkata Municipal Corporation Act, 1980.

From the report placed before this Court, it appears that though the Corporation detected unauthorized construction way back in April 2022, but till date the Corporation is yet to conclude the proceeding to deal with such unauthorized construction.

The pace in which the officers of the Corporation are proceeding, is giving an opportunity to the person responsible to carry on with the unauthorized construction and thereafter, transfer possession of the constructed area by creating third party rights.

In this manner, the Corporation hardly is able to demolish the unauthorized construction and the construction, though unauthorized, simply remains inexistence. Due to creation of third party rights, several legal complications arise and the unauthorized construction becomes difficult to be demolished.

The aforesaid action on the part of the Kolkata Municipal Corporation can neither be supported nor appreciated by the Court.

The officers of the Corporation ought to remain extremely active and vigilant and stop and prevent construction made in an unauthorized manner at the very first stage and take immediate steps for demolition of the unauthorized construction the moment the same is detected and not permit the wrong doers to continue with such unauthorized construction giving rise to third party rights.

The Executive Engineer (Civil)/Building Borough IV and V is directed to take prompt necessary steps for conclusion of the proceeding under Section 400 of the Kolkata Municipal Corporation Act, 1980 in accordance with law, at the earliest, but positively within 31st March, 2023.

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.)