

Item No.35

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

07.12.2023
Ct-24

WPA 11747 of 2023
Mehjabeen Begum

v.

Municipal Commissioner,
Kolkata Municipal Corporation & Ors.

Mr. Rabiuddin Ahmed

Md. Rehan

... for the petitioner.

Mr. Jahar Datta

Mr. Bipin Ghosh

... for the State.

Mr. Barin Banerjee

Mr. Atis Kumar Biswas

... for KMC.

The petitioner complains of illegal and unauthorized construction at the behest of the private respondent at 49F, Topsia Road (South), Ward No. 59, Borough-VIII of the Kolkata Municipal Corporation.

Allegation is that the complaint lodged against such unauthorized construction has not been considered till date.

Learned advocate representing the Kolkata Municipal Corporation has obtained instruction from the engineers of the Corporation wherefrom it appears that the premises was detected and it was found that the person responsible erected six storied RCC structure encroaching the mandatory open spaces in deviation from the G+3 storied structure which was sanctioned by the Corporation.

The department has issued stop work notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 and the matter has been processed under Section 400(1) of the Act.

From the instruction signed by the engineers of the Corporation on July 11, 2023 it is not at all clear and impossible to ascertain as to when the inspection was conducted, or when the notice to stop work was issued or the intimation served upon the police.

The engineers ought to have provided necessary details while forwarding the instruction to the Court.

In view of the above, the Executive Engineer of Borough-VII is directed to conduct fresh spot inspection upon prior notice to all the necessary parties to ascertain the exact nature and extent of unauthorized construction.

The aforesaid respondent shall take necessary steps in accordance with law to deal with the unauthorized construction and conclude the proceeding at the earliest but positively within a period of twelve weeks from the date of communication of this order.

A reasoned order shall be passed and communicated to all the parties.

The writ petition stands disposed of.

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

Attempt was made to serve the writ petition upon the private respondents but the service could not be made and the unserved postal envelopes returned with the postal endorsement 'no such person in the said

address'. The unserved envelopes have been opened in Court and the copy of the writ petition has been returned by retaining the envelopes.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

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(Amrita Sinha, J.)