

Item No.243

In The High Court At Calcutta  
Constitutional Writ Jurisdiction  
Appellate Side

18.09.2023  
Ct-24  
A.G.M.

**WPA 13966 of 2023**

**Jamil Ahmed**

**v.**

**Kolkata Municipal Corporation (KMC) & Ors.**

**Mr. Debobrata Saha Roy**

**Mr. Pingal Bhattacharya**

**Mr. Rajesh Upadhyay**

**Mr. S. Biswas**

**...For the petitioner.**

**Mr. Debjit Mukherjee**

**Ms. Susmita Chatterjee**

**... For the KMC.**

**Mr. Arun Shaw**

**... For the respondent no. 10.**

The matter relates to the construction at premises no. 77/2, Topsia Road South under Ward No. 59 Borough-VII of the Kolkata Municipal Corporation.

The petitioner alleges that the person(s) responsible has constructed in deviation of the plan sanctioned by encroaching the private land of the petitioner.

Objection filed against such unauthorised construction is alleged to be kept pending.

Learned advocate representing the private respondent denies the allegation of the petitioner. It has been submitted that a civil suit by and between the parties is pending consideration.

Learned advocate representing the Corporation has obtained instruction from the engineers of the concerned borough wherefrom it appears that the premises in question was inspected and the department issued stop work notice under Section 401 of the KMC Act, 1980 upon noticing that the mandatory side open spaces have been encroached at the time of making construction. The matter was reported to the Officer-in-Charge, Topsia Police Station for taking necessary action. Complaint is being processed under Section 400 (1) of the KMC Act, 1980 and date of hearing is fixed on 4<sup>th</sup> October, 2023.

As it appears that the Corporation has already taken steps to deal with the unauthorised construction under Section 400 (1) of the KMC Act fixing date of hearing on 4<sup>th</sup> October, 2023, accordingly, it will be open for the parties to raise all their grievances before the said authority.

The concerned authority is directed to take a decision in the matter at the earliest but positively within a period of eight weeks from the date of communication of this order.

As unauthorised construction has been detected, the Officer-in-Charge, Topsia Police Station is directed to keep strict vigil over the property so that construction in any manner whatsoever is not carried out in the subject premises.

The private respondent is restrained from selling out/transferring/alienating or creating third party right in the subject premises.

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.)**