

Item No.120(ml)

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

13.01.2023
Ct-24

WPA 16776 of 2021
Amitava Banerjee & Ors.
v.
Kolkata Municipal Corporation & Ors.

Mr. Shuvanil Chakraborty
Mr. Ratul Das
... for the petitioner.

Mr. Debjit Mukherjee
Ms.Dipanwita Ganguly
... for KMC.

The petitioner complains of illegal and unauthorized construction in the mandatory open spaces and particularly in the place earmarked as car parking space in the Kolkata Municipal Corporation Premises No. 100, Sahid Nagar; 8/43, Sahid Nagar, Ward No. 105, Borough-XII.

It is the specific complaint of the petitioner that the private respondents have converted the car parking space to a shop room, an office unit with attached toilet just by the side of the main entrance of the premises. All the above constructions have been made without obtaining any sanction from the Kolkata Municipal Corporation.

None appears on behalf of the private respondents.

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

Learned advocate representing the Kolkata Municipal Corporation submits, upon instruction that, on receiving complaint the department took action in respect of the unauthorized construction made beyond the completion plan. The department issued stop work notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 with intimation to the concerned police station in November 2021.

From the instructions received from the engineers of the Kolkata Municipal Corporation it appears that though a stop work notice was issued way back in November 1, 2021 but thereafter the Corporation did not take any steps to demolish the unauthorized construction work.

The engineers of the Corporation ought to realize that only issuing the stop work notice is not the manner in which the unauthorized constructions are to be dealt with. Not taking any further steps after issuance of the stop work notice has given a lease of life to the unauthorized constructions. The same is impermissible in law.

Immediate steps are required to be taken for demolition of the same.

In view of the above, the instant writ petition is disposed of by directing the Executive Engineer(C)/Building Department, Borough-XII to take prompt necessary steps for demolition of the unauthorized constructions in accordance with law after giving reasonable opportunity of hearing to all the necessary parties at the earliest, but positively within a

period of twelve weeks from the date of communication of a copy 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.

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(Amrita Sinha, J.)