

Item No.19

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

16.11.2023
Ct-24

WPA 17570 of 2023
Abhijit Roy & Ors.

v.

The Kolkata Municipal Corporation & Ors.

Mr. Soumyajit Bhatta
... for the petitioners.

Mr. D. Mukherjee
Ms. Susmita Chatterjee
... for KMC.

Mr. Asish Guha
Md. M. Nazar Chowdhury
... for the State.

The petitioners allege illegal and unauthorized construction at the behest of the private respondents over premises no. 11D/2, Rai Charan Pal Lane, Ward No. 59, Borough-VII of the Kolkata Municipal Corporation. The complaint lodged before the Corporation is alleged to be kept pending.

None represents the private respondents.

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

Learned advocate representing the Corporation has received instruction signed by the Sub-Assistant Engineer(C)/Building, Assistant Engineer(C) /Building and Executive Engineer (C)/Building, Borough-VII on August 9, 2023 which mentions that departmental inspection revealed that the person responsible constructed three storied RCC structure encroaching the

open spaces in deviation from the three storied sanctioned plan. The department issued stop work notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 on April 5, 2023 with intimation to the Officer-in-Charge, Topsia Police Station. The matter has been processed under Section 400(1) of the Act.

As it appears from the instruction forwarded by the engineers of the Corporation that unauthorized construction has been detected and the matter has been processed under Section 400(1) of the Act, accordingly, the Executive Engineer is directed to take prompt necessary steps to conclude the proceeding to deal with the unauthorized construction in accordance with law after giving reasonable opportunity of hearing to all the necessary parties. The proceeding shall be concluded at the earliest but positively within a period of twelve weeks from the date of communication of a copy of this order.

As the Officer-in-Charge, Topsia Police Station has already been intimated about the unauthorized construction, accordingly, the Officer-in-Charge, Topsia Police Station is directed to keep strict vigil over the subject property and ensure that construction in any manner whatsoever is not carried out at the subject premises till the matter is finally disposed of by the Corporation.

Photocopy of the affidavit-of-service is retained with the records.

Instruction forwarded by the engineers be retained with the records.

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.)