

Item No.14

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

17.11.2023
Ct-24

WPA 18548 of 2023
Shyam Chandra Das

v.

The Kolkata Municipal Corporation & Ors.

Mr. Indrajit Bhattacharjee
... for the petitioner.

Mr. Dipankar Ghosh
Mr. Atis Kumar Biswas
... for KMC.

The matter relates to certain unauthorized constructions at premises no. 501, Ho Chi Minh Sarani, Ward No. 128, Borough-XIV of the Kolkata Municipal Corporation.

The petitioner alleges that the private respondents have raised unauthorized construction and are carrying on illegal commercial activity from the said construction.

According to the petitioner, a three storied building has been raised without obtaining any sanctioned plan. Complaint lodged before the Corporation is pending consideration.

None represents the private respondents.

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

Learned advocate representing the Corporation has obtained instruction from the Assistant Engineer (C)/Building and Executive Engineer (Building) of the

concerned borough signed on October 16, 2023 which mentions that the persons responsible could not produce any sanction in support of the construction standing at the subject premises. A case was initiated under Section 400(1) of the Kolkata Municipal Corporation Act, 1980 and hearing was conducted by the Special Officer (Building) on March 31, 2022 and December 12, 2022. An order of part demolition and part retention was passed on May 17, 2023.

The higher authority of the Corporation decided to place the matter for rehearing and subsequently rehearing was conducted by the Special Officer (Building) on October 4, 2023. The proceeding is still under progress and final order has not yet been passed.

On receiving the complaint from the petitioner departmental inspection was carried out.

It appears from the instruction forwarded by the engineers of the Corporation that a proceeding to deal with the unauthorized construction is under progress. Let notice of hearing in connection with the pending proceeding be served upon the petitioner, so that the illegalities highlighted in the objection can be placed before the Special Officer (Building) who is conducting the hearing.

As regards the allegation of carrying on illegal commercial activity at the subject premises, the concerned officer of the Kolkata Municipal Corporation is directed to consider the issue in accordance with law after hearing both the parties and pass reasoned order.

A decision with regard to both the issues i.e. unauthorized construction and running illegal

commercial activity shall be decided at the earliest but positively within a period of twelve weeks from the date of communication of a copy of this order.

Learned advocate for the petitioner is directed to forward a copy of the representation dated June 20, 2023 along with all documents in support of his case to the Executive Officer at the time of communicating the order of the Court.

The writ petition stands disposed of.

The departmental report dated October 16, 2023 be retained with the records.

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.)