

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 18822 of 2023

**Tapas Nandy
-versus
The State of West Bengal & Ors.**

**Mr. Sounak Bhattacharya
Mr. Chandra Nath Sarkar
Mr. Sounak Mondal
Mr. Abhirup Halder
...For the Petitioner.**

**Mr. Ashim Kumar Ganguly
Ms. Jyotsna Roy Mukherjee
...For the State.**

**Mr. Debabrata Karan
Mr. Debojyoti Karan
Mr. Debopriyo Karan
...For the Respondent Nos. 9 and 10.**

**Mr. Srijan Nayak
Mrs. Pousali Banerjee
Ms. Suranjana Dey Sarkar
... For the K.M.C.**

The matter relates to unauthorised construction over premises no. 1/26/5, Sammilani Park, Ward No. 109, Borough XII of the KMC. The West Bengal Housing Board is the owner of the subject property. The property was given on lease on certain terms and conditions.

It appears that the private respondent in violation of the terms and conditions of the lease deed, procured

plan for raising construction without taking prior consent of the Housing Board.

Complaint was lodged before the Corporation.

It has been submitted by the learned advocate representing the Corporation, upon instruction from the Executive Engineer (Civil)/Building that, portion of the unauthorised construction under Section 400(8) of the KMC Act, 1980 was demolished on 3rd October, 2023.

Learned advocate representing the private respondents submits that the demolition was conducted without any prior notice.

From the submissions made on behalf of the parties and upon perusal of the materials on record it appears that, plan ought not to have been sanctioned on the subject plot of land as the same was the contrary to the terms and conditions of the lease deed executed by the West Bengal Housing Board.

Any construction made on the basis of the plan sanctioned over the said plot of land is an unauthorised construction. The entire construction is liable to be demolished.

The Corporation has submitted that portion of the unauthorised construction was demolished by invoking Section 400 (8) of the KMC Act, 1980.

The Corporation is liable to demolish the entire construction over the subject plot of land.

Demolition shall be carried out at the earliest but positively within a period of four months from the date of communication of this order.

Plan, if any, sanctioned by the Corporation, shall be immediately revoked.

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.)