

Item No. 208 (ML)

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

25.01.2023
Ct-24

WPA 20044 of 2021
Jahangir Alam & Anr.

v.

The Kolkata Municipal Corporation & Ors.

Mr. Rajarshi Basu
Mr. S.T. Mina
... for the State.

Mr. Achintya Kumar Banerjee
Mr. Anand Farmania
... for KMC.

None appears on behalf of the petitioners at the time of call.

On a perusal of the averments made in the writ petition and the documents annexed thereto and upon hearing the submissions made on behalf of the Kolkata Municipal Corporation and the State respondents it appears that the petitioners complain of illegal and unauthorized construction at the instance of the respondent nos. 8 and 9 at Premises No. 70, Rabindra Sarani, Ward No. 43, Borough-V under the jurisdiction of the Kolkata Municipal Corporation.

It further appears from the documents annexed to the writ petition that the Sub-Assistant Engineer by a communication dated January 29, 2018 intimated the Assistant Engineer (C), Borough-V that unauthorized construction has been detected and notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 was served upon the person responsible with intimation to Bowbazar Police Station. Further inspection revealed that despite issuance of the stop work notice, the construction work has been continuing.

The Sub-Assistant Engineer solicited necessary instruction in the matter.

The petitioners complain that no steps have been taken for demolition of the unauthorized construction till date.

Learned advocate representing the Kolkata Municipal Corporation submits, upon instruction that, the matter was placed before the higher authority of the Kolkata Municipal Corporation for further processing.

As it appears that the Corporation has already detected unauthorized construction, accordingly, it is incumbent on the part of the Corporation to take steps for demolition of the unauthorized construction, failing which the person responsible for making such construction will get a premium to carry on such type of unauthorised construction in future.

It is the bounden duty of the Corporation to take prompt necessary steps to stop any unauthorized construction as and when the same is detected and take further consequential steps for demolition of the same.

In the present case, it appears that the unauthorized construction was detected way back in the year 2018, but till date no steps have been taken for demolition of the said unauthorized construction.

In view of the above, the instant writ petition is disposed of by directing the Municipal Commissioner or his delegate to take consequent steps upon issuance of the stop work notice and lodging of FIR against the person responsible for making construction and ensure that the unauthorized construction is demolished in accordance with law.

A reasonable opportunity of hearing shall be given to all the necessary parties.

The proceeding to deal with such unauthorized construction shall be concluded positively within a period of twelve weeks from the date of communication of a copy of this order.

Learned advocate representing the Kolkata Municipal Corporation is directed to communicate this order to the respondent authorities so that the order can be implemented in its true spirit within the time as specified hereinabove.

The writ petition stands disposed of.

Instruction given by the engineers of the Kolkata Municipal Corporation, Borough-IV & V signed on December 16, 2021 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.)