

Sl. 5
11.08.2023
ssi

Ct 238

WPA 19589 of 2023

Anil Kumar Mishra

-vs-

The Kolkata Municipal Corporation & ors.

Mr. Biswajib Ghosh

Mr. Sumitava Chakraborty

Mr. Debottam Das

Ms. Dibyanjona Das

... for the petitioner

Mr. Subhrangsu Panda

Ms. Ina Bhattacheryya

..for the KMC

It is the grievance of the petitioner that the Kolkata Municipal Corporation (in short, the KMC) without issuing any notice upon the petitioner is trying to demolish the construction at premises no.1, Banstalla Gullee. It is the case of the petitioner that his father had obtained a sanction plan from the KMC on 28th June, 2021 and raised a construction in accordance with the said sanction plan.

On behalf of the corporation, it has been submitted that the petitioner has not only deviated from the said sanction plan, he has raised one additional floor over and above the sanction area granted by the corporation.

It appears that initially the father of the petitioner was served with a notice under Section 401 of the Kolkata Municipal Corporation Act, 1980. The corporation, however, chose not to proceed with the said notice. The father of the petitioner died on 6th July, 2023. Thereafter, the corporation

sought to invoke the provision of Section 400 (8) of the KMC Act. In my view, in the facts and circumstances of this case, the invocation of Section 400 (8) was not justified since no emergent situation arose to take action under the said provision.

In that view of the matter, the notice issued under Section 400 (8) of the KMC Act, 1980 issued against the petitioner is set aside.

However, this shall not prevent the corporation from issuing a fresh notice under Section 400 (1) of the KMC Act, 1980 against the petitioner. The corporation should make an endeavour to conclude the said proceeding as expeditiously as possible preferably within a period of four months from date upon due compliance of the opportunity of hearing to the petitioner in terms of the Kolkata Municipal Corporation Act, 1980.

W.P.A 19589 of 2023 is thus disposed of.

All parties to act on the server copy of this order will be downloaded on the Official website of this Court.

(Kausik Chanda, J.)