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Ct No 2023
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AGM

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

WPA 21551 of 2022

**Sri Debasish Chakrabartty
Vs
The Kolkata Municipal Corporation & Ors.**

Mr. Sudipta Dasgupta
Mr. Saikat Sutradhar

... For the Petitioner.

Mr. Achinta Banerjee
Mr. Fazlul Haque

...For the KMC.

The petitioner is a businessman and carrying on business on the strength of the certificate of enlistment issued by the Kolkata Municipal Corporation.

The petitioner submits that he carries on business with inflammable objects.

The private respondents have set up a temporary structure made of bamboo and tarpaulin on the footpath just opposite to the business premises of the petitioner and are selling cigarettes, match boxes, tea and other items from the said temporary stall.

The petitioner apprehends that any fire splinter from the burning butts of the cigarettes or matchstick may lead to fire in the business place of the petitioner.

The petitioner has raised objection before the Officer-in-Charge, Parnasree Police Station and before the Commissioner of KMC with request to remove the illegal

temporary structures erected on the public footpath. There is no response from the end of the authorities.

The writ petition which was sought to be served upon the private respondents being the person responsible for erecting the stall i.e., the respondent nos. 7 and 8 could not be effected and the unserved envelopes have returned with the postal endorsement 'not known'.

Learned advocate representing the KMC submits that it is the duty and responsibility of the police to ensure that the unauthorised structure is removed. He further submits that the Corporation does not have any role to play in the matter.

The Court cannot accept the submission made on behalf of the KMC.

The Corporation ought to ensure that the footpaths are kept free for movement of the pedestrians and not blocked by unauthorised structures. The petitioner apprehends that a fire may break out as the unauthorized structure is dealing with open flame and the risk of the business of the petitioner catching fire cannot be ruled out. A complaint is already pending consideration before the Commissioner of KMC.

The Commissioner, KMC or his delegate is directed to take steps for immediate removal of the unauthorised stall as mentioned in the writ petition.

The Officer-in-Charge, Parnasree Police Station being the respondent no. 6 herein is directed to render all necessary help and assistance to the men and agents of the KMC at the time of removal of the subject stall. The

said Officer-in-Charge is also directed to keep strict vigil in and around the area to ensure that similar nature of stalls are not set up after removal of the unauthorized structure.

Learned advocate for the petitioner is directed to forward a copy of the representation dated 29th July, 2022 to the Commissioner, KMC and to the Officer-in-Charge, Parnasree Police Station at the time of communication of the order of the Court.

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.)