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20.11.2023
Court No. 24
AGM

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

W.P.A 21699 of 2023

**Noor Alam
-versus-
The State of West Bengal & Ors.**

**Mr. Dipayan Kundu
...For the Petitioner.**

**Mr. Barin Banerjee
Mr. Dipankar Ghosh
...For the K.M.C.**

**Mr. Avijit Sarkar
... For the State.**

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

The petitioner complains of illegal and unauthorised construction at premises no. 50, Shamsul Huda Road, Ward No. 65, Borough-VII of the Kolkata Municipal Corporation.

Objection against such unauthorised construction is pending consideration.

There are several private respondents arraigned as parties in the instant writ petition. The writ petition could not be served upon the private respondents as they could not be located.

Learned advocate representing the Kolkata Municipal Corporation has produced the report signed on 4th October, 2023 by the Sub Assistant Engineer/ (Civil)/Building, Assistant Engineer (Civil)/ Building and Executive Engineer (Civil)/ Building, Borough-VII wherein it has been mentioned that the department inspected the premises and found that the person (s) responsible for making construction have constructed two additional floors over the five storied sanctioned building encroaching the mandatory side open spaces. The Department issued stop work notice under Section 401 of the KMC Act, 1980 with intimation to the local police station in March 2023. The matter is being processed under Section 400 of the KMC Act, 1980.

In view of the order that I propose to pass, none of the non appearing respondents would be prejudiced if the writ petition is disposed of in the following manner.

As it appears from the report filed by the Corporation that unauthorised construction has been detected, the Executive Engineer (Civil)/Building/ Borough-VII is directed to take prompt necessary steps to deal with the unauthorised construction in accordance with law at the earliest but positively within a period of twelve weeks from the date of communication of this order.

The Officer-in-Charge, Karaya Police Station is directed to keep strict vigil over the subject property to ensure that construction in any manner whatsoever is not carried out at the subject premises and no third party rights are created over the same.

The private respondents are restrained from transferring/alienating/handing over possession of the subject premises in favour of third parties till the matter is finally decided by the Corporation.

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.)