

Item No.30

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

2.01.2023
Ct-24

WPA 23105 of 2022
Shyamali Dutta

v.

The Kolkata Municipal Corporation & Ors.

Mr. Mohinoor Rahaman
Ms. Iqra Rahaman
... for the petitioner.

Ms. Rituparna Ghosh
... for the respondent no. 7.

Mr. Tapan Dutta Gupta
Mr. Parvej Anam
... for the respondent nos. 8 & 9.

Mr. Swapan Pal
... for the State.

Mr. Debjit Mukherjee
Ms. Suranjana De Sarkar
... for KMC.

The petitioner alleges illegal and unauthorized construction at premises no. 24M/7, Barwaritala Road, Kolkata-700010, Ward No. 34, Borough-III under the jurisdiction of the Kolkata Municipal Corporation.

The petitioner complains that the objection filed in the year 2021 has not been acted upon by the Corporation.

Learned advocate representing the private respondents denies the allegation of the petitioner.

Learned advocate representing the Kolkata Municipal Corporation produces the report by the Executive Engineer(C)/Bldg. Department, Borough-III

signed on November 5, 2022 mentioning that the second, third floors of the subject premises was illegally constructed in deviation from the sanctioned plan.

Documents annexed to the report shows that a notice to stop construction at the aforesaid premises was issued in December 2017 with intimation to the Beliaghata Police Station.

The communication to the Officer-in-Charge, Beliaghata Police Station dated December 15, 2017 mentions that the subject premises was inspected by the department and it was found that RCC frame/brick masonry structure is being erected upto the third storey with RCC column at the fourth storey without any sanctioned plan. The premises is situated in a congested area and if the construction is allowed to stand, the same will create several hazards such as fire, traffic and disruption of drainage and sanitation and water supply. The construction is being made in a haphazard manner without following the norms and practice of civil engineering and the construction may collapse at any time causing loss of human life.

A further intimation was given to the Officer-in-Charge, Beliaghata Police Station by the Assistant Engineer (C), Building Department, Borough-III on December 18, 2017.

It appears from the aforesaid instruction that even though the Engineer of the Kolkata Municipal Corporation opined that the construction may collapse at any point of time as the same is being made without following the norms and practice of civil engineering and may create several other hazards, the private respondents have managed to continue with the

construction work and the Corporation failed to take any steps to deal with or stop the same.

The persons responsible have been taken advantage of the inaction on the part of the Corporation and continued with the unauthorized construction.

The Corporation ought to have been more vigilant and should have taken stringent measures to deal with the unauthorized construction to prevent the persons responsible from continuing with the same. From December 2017 till the end of 2022, the Corporation is yet to demolish the unauthorized structure.

The conduct of the concerned officers of the Corporation is being viewed seriously by the Court.

In the present situation, the Court directs the Municipal Commissioner being the respondent no. 2 herein, to take steps for demolition of the unauthorized construction in accordance with law, at the earliest, but positively within a period of twelve weeks from the date of communication of a copy of this order.

The writ petition stands disposed of.

Instruction given by the Executive Engineer(C) Building Department, Borough-III dated November 5, 2022 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.)