

20
29.09.2023
Court No. 24
A.G.M.

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

W.P.A 23511 of 2023

**Partha Pratim Kundu & Ors.
-versus
The State of West Bengal & Ors.**

**Mr. Raghunath Chakraborty
Mr. Swarvanu Saha
Ms. Nandini Chatterjee
...For the petitioners.**

**Mr. Dwijadas Chakraborty
Mr. Sundar Gopal Bhattacharya
...For the KMC.**

The matter relates to certain unauthorized construction at 15/H/1, Narkeldanga North Road, Ward No. 29, Borough-III, under jurisdiction of the Kolkata Municipal Corporation.

Unauthorized construction was detected and notice to stop work was issued to the person(s) responsible on 3rd February, 2023. The person(s) responsible defying the stop work notice continued with the construction of four storied structure without obtaining any sanction at all. Intimation was given to the local police station.

The matter was placed before the appropriate authority, which later on was placed before the Mayor in-Council and in the meeting of the Mayor-in-Council held on 1st March, 2023, resolution was adopted to take recourse to the provision of Section 400(8) of the KMC Act, 1980. The Mayor approved the same.

For implementing the order under Section 400 (8) of the KMC Act, 1980, the Corporation has taken steps for demolition of the unauthorized construction.

Learned advocate for the petitioner submits that there is no reason for invoking provision under Section 400(8) of the KMC Act, 1980. There is no requirement of any immediate action being taken as the construction is in place for quite some time.

The petitioner, however, admits that the construction is being made without obtaining any sanction.

Learned advocate representing the Corporation submits that part demolition has taken place and balance demolition will take place from 3rd October, 2023 onwards.

Upon hearing the parties, it appears that the Corporation detected unauthorized construction in February and on 1st March, 2023 decision to invoke 400 (8) of the Act was taken. There is hardly any delay on the part of the Corporation to take steps in the matter.

The engineers of the Corporation have opined that the construction, if allowed to stand, will create hazards including fire and environmental hazards.

After noticing the conduct of the petitioner in raising construction without obtaining any sanction plan, the Court refuses to exercise jurisdiction in the matter. The Corporation is directed to take steps for demolition of the entire unauthorized construction immediately.

The writ petition fails and is hereby dismissed.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)