

23
22.11.2023
Court No. 24
A.G.M.

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

WPA 23722 of 2023

**Nirmal Das & Ors.
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. Debasish Kundu
... For the petitioners.**

**Mr. Md. Danish Taslim
... For the respondent no. 6.**

**Mr. Dwijadas Chakraborty
... For the K.M.C.**

The petitioners complain of illegal mutation of the property standing at 40 and 41, Matilal Basak Lane, Kolkata- 700 054, Ward no. 31, Borough III, Kolkata Municipal Corporation.

Specific allegation is that sale and mutation was done in violation of the order of injunction passed by this Court on 30th June, 2009 in G.A. 1699 of 2009, Suit No. 2024 of 1952 in the matter of Sm. Maloti Das & Ors –Vs- Jatindra Kumar Das & Ors.

Further allegation is that unauthorised construction has been done at the behest of the private respondent.

Objection filed against such unauthorised construction and illegal mutation is pending consideration at the end of the Corporation.

Learned advocate representing the private respondent denies the allegation of the petitioners. It has been submitted that the sale, mutation and construction of boundary wall is in accordance with law.

Learned advocate representing the KMC has handed over the instruction forwarded by the Assistant Engineer (Building) and the Executive Engineer (Building), Borough-III, K.M.C. signed on 7th October, 2023 wherein it has been mentioned that departmental inspection on 6th October, 2023 revealed that a single storied R.C.C. framed structure exists at the subject premises. The person(s) responsible failed to produce any valid document in support of the construction.

The Corporation issued stop work notice under Section 401 of the K.M.C. Act, 1980 on 6th October, 2023 with intimation to the Phoolbagan Police Station on 7th October, 2023. Demolition proceeding under Section 400 of the KMC Act, 1980 has been initiated.

There is no instruction with regard to the illegal mutation of the subject property.

As it appears that the Corporation detected unauthorised construction, accordingly, the concerned Executive Engineer is directed to take necessary steps to deal with the same in accordance with law.

The proceeding to deal with the unauthorized construction shall be concluded at the earliest but

positively within a period of twelve weeks from the date of communication of this order.

As regards the illegal mutation, it appears that representation was not served before the proper authority of the Corporation.

In view of the above, it will be open for the petitioners to file appropriate representation before the concerned authority highlighting the illegalities in mutation.

In the event such representation is made, the same shall be taken up for consideration and disposed of by the appropriate authority in accordance with law at the earliest after giving reasonable opportunity of hearing to all the necessary parties by passing a reasoned order.

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.)