

20.
08-02-2023
debajyoti
(Ct. no.24)

WPA 25448 of 2022

Smt. Sandhya Roy Dhar
Vs.
The Kolkata Municipal Corporation & Ors.

Mr. Sankha Subhra Mukherjee,
Ms. Barnali Saha
... For the Petitioner.

Mr. Debjit Mukherjee,
Ms. Dipanwita Ganguly
... For K. M. C.

Mr. Pinaki Dhole,
Mr. Pinaki Bhattacharya
... For the State.

The petitioner complains of illegal and unauthorized construction at the instance of the private respondents at B/101/H/5, Dr. S. C. Banerjee Road, Kolkata-10, Ward No.33, Borough III, under jurisdiction of the Kolkata Municipal Corporation.

The petitioner relies upon the judgment delivered by the Senior Municipal Magistrate, Kolkata, wherein the private respondents have been found guilty of the offences punishable under Sections 401A/392/618 of the KMC Act, 1980.

It has been submitted that at the time of filing of the writ petition, the structure was a three storied unauthorized building. Presently, one additional floor has been raised and the structure is a four storied building. The petitioner submits that the entire structure is unauthorized. Prayer has been made for demolition of the unauthorized structure.

Learned advocate, representing KMC has received instructions from the Executive Engineer

(Civil), Building Department, Borough-III, signed on 3rd February, 2023 mentioning that the four storied structure is unauthorized. A notice under Section 401 of the KMC Act was issued on 19th July, 2019 with intimation to the police on 20th July, 2019. FIR was lodged with Beliaghata Police Station on 9th September, 2019. Presently, the demolition proceeding is pending under Section 400(1) of the KMC Act, 1980 before the Special Officer (Building).

It has been submitted that the Special Officer (Building) cannot dispose of the said proceeding as repeated adjournments are sought for by the parties.

The Court cannot appreciate the stand of the Corporation. Unauthorized construction which was detected way back in July, 2019, is yet to be demolished. The demolition proceeding is still continuing. On account of the delay in conclusion of the demolition proceeding, the private respondents are still continuing with the construction work. The Executive Engineer has reported that the entire structure is an unauthorized one.

The Special Officer (Building) ought to take prompt necessary steps for conclusion of the demolition proceeding and ensure that the unauthorized construction is demolished at the earliest.

The present writ petition is, accordingly, disposed of by directing the Executive Engineer (Civil), Building Department, Borough-III, to communicate this order to the Special Officer (Building) before whom the demolition proceeding is currently pending. The concerned officer shall take steps to conclude the demolition proceeding at the earliest, but positively,

within a period of twelve weeks from the date of communication of the order, without granting any unnecessary adjournment to either of the parties.

WPA 25448 of 2022 is, thus, disposed of.

Instructions by the Executive Engineer be retained with the records.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Amrita Sinha, J.)