

05 28.08.2023
rkd Ct.15

W.P.A. 26867 of 2017

Sri Swapan Kumar Dey

-vs-

The Kolkata Municipal Corporation & Ors.

Mr. S. Banerjee,
Mr. Sudipta Kumar Das,
Mr. Subir Banerjee

....for the petitioner.

Mr. Deepnath Roy Chowdhury,
Mr. Biplab Das

....for the respondent nos.7 & 8.

Mr. Alak Kumar Ghosh,
Mr. Ranajit Chatterjee,
Mr. Sourab Chaudhury

....for the KMC.

Pursuant to the order dated 7th August, 2023 a report has been filed by the Executive Engineer (C) Building Department, Borough-I, KMC which is taken on record.

From the said report it transpires that it has been recorded that the concerned authority of Kolkata Municipal Corporation (for short "KMC"), *prima facie* found that there was a single storied tin shaded structure at 9, Kalikumar Banerjee Lane, Kolkata- 700002.

On inspection it has been found that at present two storied structure is existing at the aforesaid site from which facts it has been concluded in the said report dated 26th August, 2023 further constructions have been made by the private respondents after issuance of stop work

notice dated 6th November, 2017 and the concerned authority of KMC to restrain the private respondents from making further unauthorised construction issued another stop work notice dated 13th January, 2021 subsequently.

On perusal of such report, this Court finds that the appropriate course which is left open is to direct the concerned authority of KMC to initiate a proceeding under Section 400(1) of the Kolkata Municipal Corporation Act, 1980 and bring the same into logical conclusion within a specified time.

Let such proceeding under Section 400(1) be initiated within two weeks from the date of communication of this order and be concluded within twelve weeks thereafter after granting opportunity of hearing to the petitioner and the private respondents.

It is made clear that this Court has not gone into the merit of the issue so far the alleged construction has been made by the private respondents and all points are kept open to be deliberated upon at the time of consideration of the issue by the concerned authority of KMC in the proceeding to be initiated under Section 400(1).

The decision to be taken by the concerned

authority of KMC on conclusion of the aforesaid proceeding shall be communicated to the parties within one week thereafter.

With the aforesaid direction the writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)