

04.04.2023  
Item No. 10  
Court No. 24  
**AGM**

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

**WPA 25820 of 2022**

**Zulfequar Ali  
Vs  
The Kolkata Municipal Corporation & Ors.**

**Mr. Dinendra Nath Chatterjee  
Mr. B. Sengupta,  
... For the Petitioner.**

**Mr. Dilip Chatterjee  
Mr. Mihir Kundu  
... For the KMC.**

**Mr. Sudipto Panda  
Mr. Mun Mun Tewary  
... for the State.**

The petitioner alleges illegal and unauthorised construction at premises no. 1/4/1D, Jiban Krishna Ghosh Road, Kolkata- 700 037, Ward No. 3, Borough-I under jurisdiction of the Kolkata Municipal Corporation.

It appears that a demolition case was initiated in respect of certain portion of the subject premises in the year 1975-76. An order was passed by the Special Officer (Buildings) I on 19<sup>th</sup> August, 1983 for demolition of the first floor of the subject premises within thirty days, failing which the unauthorised portion would be demolished by the Corporation and the cost of such demolition be recovered from the persons responsible for making construction.

The petitioner submits that the order passed by the Special Officer (Buildings) directing demolition of the unauthorized construction has not been executed till date.

In November, 2022, a representation has been filed before the Corporation by the petitioner seeking implementation of the order dated 19<sup>th</sup> August, 1983 passed by the Special Officer (Buildings). It has been submitted that the unauthorised portion is being used for commercial purpose without any permission.

There is nothing on record to suggest that in the interregnum, that is, after the passing of the order in 1983 till the filing of the representation in November 2022, the petitioner took any step for implementing the order of demolition.

The Executive Engineer (Civil) of the concerned authority has forwarded instruction that the premises was inspected and it was found that there is an existing two storied old brick built building with tin shed supported by bamboo structure at the subject premises. The age of the building is more than forty years and no new construction has been found.

The petitioner has not been able to show that any new construction has been made which is not in accordance with the Municipal Building laws.

The alleged unauthorised construction is in existence from 1973-74.

At this stage it will not be proper to direct the Corporation to initiate any proceeding for demolition of the unauthorised construction in respect of a two storied brick built tin shed structure constructed approximately forty years back.

As regards use of the premises for commercial purpose without obtaining any permission, it will be open for the petitioner to raise appropriate objection before the concerned authority.

In the event such representation is filed, the same shall be taken up for consideration by the concerned authority in accordance with the law after giving

reasonable opportunity of hearing to all the necessary parties.

The writ petition stands disposed of.

Instruction given by the Executive Engineer (Civil)/Building Department, Borough – I be retained with the records.

Report filed by the Officer-in-Charge, Ultadanga P.S. dated 29.11.2022 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.

**(Amrita Sinha, J.)**