

24.03.2023
Item No. 19
AGM

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

W.P.A. 26728 of 2022

**Bimal Kumar Shah
-versus
The Kolkata Municipal Corporation & Ors.**

Mr. Moinak Basu,
Mr. Rishabh Karnani,
Mr. Arjun Mookherjee,
Ms. Shebatee Datta, ...For the Petitioner.

Mr. Srijan Nayak,
Ms. Debangana Dey Nayak,
... For the K.M.C.

Ms. Ankita Ghosh, ... For the respondent No. 5.

In compliance of the direction passed by the Court on 30th January, 2023, a joint spot inspection was conducted on 11.02.2023 upon notice to both the petitioner as well as the person responsible for making construction being the private respondent herein.

During inspection it was found that foundation of columns has been constructed and reinforcement rods have been raised above ground level. On demand the person responsible could not produce any document in support of the construction made.

The Corporation issued a stop work notice under Section 401 of the KMC Act, 1980 on 11.02.2023 with intimation to the local police station on the same date. Demolition proceeding under section 400 of the KMC Act has been initiated.

Learned advocate representing the petitioner submits that despite the stop work notice issued, the

private respondent is continuing with the construction work.

It appears that the Officer-in-Charge, Narkeldanga P.S. is not able to implement the stop work order that was issued upon the person responsible and the construction work is reported to be going on in full swing.

Accordingly, the Court thinks it fit to direct the Deputy Commissioner of Police, Eastern Suburban Division to keep a strict vigil over the subject property to ensure that no construction in any manner whatsoever is carried out at the subject premises till the matter is finally decided by the Corporation.

The Executive Engineer of the concerned Borough is directed to take step to conclude the demolition proceeding against such unauthorised construction in accordance with law, at the earliest but positively within a period of twelve weeks from the date of communication of this order.

A reasonable opportunity of hearing shall be given to all necessary parties prior to passing a final order.

Report filed by the Executive Engineer (Civil) Building Department, Borough III, KMC is retained with the records.

Copy of the same has been handed over to the learned advocate representing the petitioner and the private respondent.

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.)