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20.01.2023
d.p.

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

W.P.A 26820 of 2022

**Imran Siddique @ Md Imran
-versus
The State of West Bengal & Ors.**

**Md. Nauroz Rahber,
Mr. Mahammad Jawwood.
...For the Petitioner.**

**Mr. Gopal Chandra Das,
Mr. Rudranil De.
...For KMC.**

**Mr. Debjit Mukherjee,
Ms. Susmita Chatterjee.
...For the State.**

The matter relates to the premises no. 70,
Canning Street, Kolkata, Ward No.-42, Borough-V.

A notice under Sections 544 and 546 of the
Kolkata Municipal Corporation Act, 1980 was issued.

The copy of the notice that has been annexed to
the writ petition mentions that the said notice was
issued to the owner and occupier of the aforesaid
premises for demolishing the unauthorized structure in
terms of the order of the Executive Engineer
(Civil)/Building under Section 400(1) of the Kolkata
Municipal Corporation Act, 1980.

The petitioner is aggrieved by the same.

It has been submitted that no notice in respect of the demolition proceeding was ever served upon the petitioner.

On a perusal of the notice dated 28th November, 2022 impugned in the present writ petition, it appears that the date of the order of demolition of the Executive Engineer is not mentioned.

From the documents produced before this Court by the learned advocate appearing for the Kolkata Municipal Corporation, there is no proof of service of the notice under Section 400 or notice under Section 400(1) of the Kolkata Municipal Corporation Act, 1980 upon the petitioner.

The notice under Section 400 of the Kolkata Municipal Corporation Act, 1980 dated 28th October, 2022 addressed to the petitioner was allegedly received by one Bishnu Chakraborty on 5th December, 2022. There is no indication that the aforesaid Bishnu Chakraborty received the notice in favour of the petitioner.

There is an application made for obtaining certified copy of the order of the Executive Engineer passed under Section 400(1) of the Kolkata Municipal Corporation Act, 1980 made by one Prabir Ranjan Basu, learned advocate on 5th December, 2022.

There is no indication that the said application for obtaining certified copy by Prabir Ranjan Basu, learned advocate was made on behalf of the petitioner.

As the Court is not satisfied with the service of the notice in respect of the demolition proceeding

initiated against the petitioner for making unauthorized construction, accordingly, the notice dated 28th November, 2022 impugned in the present writ application is set aside.

It will be open for the Executive Engineer of the concerned Borough to initiate fresh proceeding against the petitioner after giving proper notice, if the unauthorized construction made in the subject premises still exists.

The bunch of documents handed over by the learned advocate appearing for the Corporation and the instruction provided by the Sub-Assistant Engineer, Assistant Engineer and the Executive Engineer (Civil)/Building, Borough- IV and V dated 2nd January, 2023 be retained with the records.

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.)