

Item No.14

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 26459 of 2023
Pintu Das

v.

The State of West Bengal & Ors.

Mr. Supratik Basu
Ms. Samata Chhari
... for the petitioner.

Mr. Pinaki Dhole
Ms. Tapati Samanta
... for the State.

Mr. Gopal Chandra Das
Mr. Atish Ghosh
... for KMC.

The matter relates to the unauthorized construction at B/1/1A/H/9, Dr. Panchanan Mitra Lane, Kolkata-700085, Ward No. 35, Borough-III of the Kolkata Municipal Corporation.

Stop work notice was issued by the Kolkata Municipal Corporation on June 26, 2023 to the owners and person responsible for making construction as the construction was being made without any sanction. The petitioner thereafter filed representation before the Executive Engineer of the Corporation on July 4, 2023 seeking regularization of the construction made. Further representation was filed before the Corporation on September 8, 2023 and notice for demanding justice was made on October 9, 2023.

The petitioner submits that the men and agents of the Corporation conducted part demolition on November

23, 2023 and may take steps for further demolition of the entire structure within a short period of time.

It has been submitted that the demolition has been done without granting any opportunity of hearing to the petitioners. It has been contended that the constructed portion is only 300 sq. ft.

Learned advocate representing the Corporation submits that the provision of Section 400(8) of the Kolkata Municipal Corporation Act, 1980 was invoked for demolishing the unauthorized construction.

It has been admitted that part demolition has been conducted and there was no requirement of giving prior notice for conducting the demolition work as per Section 400(8) of the Act.

It appears from the submissions made on behalf of both the parties that part demolition has already taken place. The constructed area, according to the petitioner, is 300 sq. ft.

The Executive Engineer is directed to cause further spot inspection to ascertain as to whether the balance demolition work is required to be executed or not. The inspection shall be made upon prior notice to the petitioner as well as the complainant who is the brother of the petitioner.

After inspection is conducted, the report of spot inspection shall be circulated amongst all the parties. If the Executive Engineer is of the opinion that the balance construction work is required to be demolished, then necessary steps shall be taken for demolition of the same. If there is scope to regularize the balance

construction work, then steps shall be taken in accordance with law.

Till a decision is taken by the concerned Executive Engineer in accordance with the direction passed hereinabove, further demolition need not be conducted.

The writ petition stands disposed of.

Affidavit-of-service filed in Court today is taken on record.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)