

ORDER SHEET

WPO/7/2023

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

NIRMAL KUMAR DAS @ NIRMAL DAS
-VS-
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date : January 6, 2023.

Appearance:
Mr. Anindya Bose, Adv.
Mr. Amit Gupta, Adv.
Mr. Diptendu Mandal, Adv.
Ms. Debagana Dey Nayak, Adv.
...for the petitioner

Mr. Swapan Kr. Debnath, Adv.
Ms. Sabnam De, Adv.
...for the KMC

The Court: The matter relates to certain unauthorized construction carried on at premises No. B/1/1/H/11/1, Dum Dum Road, Ward No.2, Borough-1 under the jurisdiction of the Kolkata Municipal Corporation.

The petitioner submits that though stop work notice was issued in the month of October, 2022 but thereafter no consequential steps have been taken. The petitioner seeks for a direction upon the Kolkata Municipal Corporation to conclude the proceeding, if at all, initiated by the Corporation.

Learned counsel representing the Kolkata Municipal Corporation has produced the instruction given by the Executive Engineer (C), Building Department, Borough-I signed on 4th January, 2023 wherein it has been mentioned that departmental inspection revealed unauthorized construction of several RCC columns at the aforesaid premises. Stop work notice was

issued to the person responsible on 18th October, 2022 with intimation to the Sinthi Police Station on the same date.

Further inspection revealed that despite issuance of stop work notice, the person responsible continued with the unauthorized construction. To stop further progress of work, FIR was lodged against the person responsible under Section 401A of the KMC Act, 1980 on 20th October, 2022.

Further inspection on 26th November, 2022 revealed that the person responsible was carrying on with the construction of the RCC slab at the ground floor roof level and extended the RCC column over the ground floor roof level defying all the stop work notices issued earlier. The matter was placed before the appropriate authority of the Kolkata Municipal Corporation for passing necessary direction.

The competent authority of the Kolkata Municipal Corporation approved the invocation of the provision under Section 400(8) of the KMC Act to demolish the unauthorized construction and 6th January, 2023 has been fixed for demolition of the said construction.

The Mayor-in-Council has approved the decision to invoke the provision under Section 400(8) of the KMC Act, 1980.

It appears from the instruction provided by the Executive Engineer of the Borough that the petitioner is responsible for massive unauthorized construction and is continuing with the same by ignoring all stop work notices issued. No permission whatsoever has been obtained for making such construction.

In view of the above the Executive Engineer is directed to proceed with the demolition work, as scheduled.

The writ petition stands disposed of.

Instruction given by the Executive Engineer (Civil), Building Department, Borough-I signed on 4th January, 2023 be retained with the record.

Affidavit of service filed in Court 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.)