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ORDER SHEET

WPO No.486 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

FIROZ AKHTER
VS.
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 27th March, 2023.

Ms. S. Bala, Advocate for the Petitioner.

Mr. Gopal Chandra Das, Mr. Syed Nasirul Hossain, Advocates for KMC.

The Court:-The petitioner complains of illegal and unauthorized construction at the behest of the respondent nos.4 & 5 at premises no.166/H/79, Keshab Chandra Sen Street, Ward No.37, Borough No. V under jurisdiction of the Kolkata Municipal Corporation.

The petitioner alleges that the legal representation filed objecting to such unauthorized construction has not been taken up for consideration till date.

None appears on behalf of the private respondent despite service. Affidavit of service filed in Court today is taken on record.

Learned advocate representing the Kolkata Municipal Corporation submits, upon instruction that, pursuant to the information regarding unauthorized construction inspection was conducted. Departmental inspection revealed unauthorized construction without approval of the Kolkata Municipal Corporation authority. On demand, the person responsible could not produce any valid document in support of such construction.

A stop work notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 was issued on 8th July, 2022 with intimation to the

Amherst Street Police Station on the same date. To stop further progress of construction work, department lodged FIR under Section 401A of the Kolkata Municipal Corporation Act, 1980 on 4th November, 2022 and a letter was sent to the Joint Commissioner of Police (I), Lalbazar for imposing round the clock police posting on 13th February, 2023.

Department has completed the proceeding under Section 400 of the Act read with suitable sub section to demolish the said construction and the demolition has been carried out on 9th December, 2022 & 17th February, 2023 with the assistance of the local police station.

It appears from the instruction given by the Sub-Assistant Engineer (Civil), Assistant Engineer (Civil) and the Executive Engineer (Civil)/Building Department, Borough Nos. IV & V signed on 13.03.2023 that the demolition has been carried out, but from the averments made in the writ petition it appears that the persons responsible are still continuing with the unauthorized construction.

In view of the above, the Executive Engineer (Civil) /Building Department, Borough IV & V, Kolkata Municipal Corporation is directed to take steps to deal with any further unauthorized construction at the subject premises in accordance with law.

Joint Commissioner of Police (I), Lalbazar is directed to keep strict vigil over the property through the Amherst Street Police Station to ensure that construction in any manner whatsoever is not carried out at the subject premises without obtaining sanction from the Kolkata Municipal Corporation.

The writ petition stands disposed of.

Instruction forwarded by the engineers of the Kolkata Municipal Corporation signed on 13.03.2023 be retained with the record.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)

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