

OD-4

ORDER SHEET
WPO No. 587 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

MIRADOR COMMERCIAL PRIVATE LIMITED & ANR.
Versus
STATE OF WEST BENGAL & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date: 23rd March, 2023.

Appearance:
Mr. Abhishek Halder, Adv.
Mr. Swadesh Misra, Adv.
Ms. Madhurima Basu, Adv.
...for the Petitioners.

Mr. Fazlul Haque, Adv.
Mr. Arijit Dey, Adv.
...for KMC.

Mrs. Sipra Majumder, Adv.
Mrs. Debarati Sen(Bose), Adv.
...for the State.

The Court:-Petitioners complain that despite stop work notice issued under Section 401 of the Kolkata Municipal Corporation Act, 1980 the person responsible is continuing with the unauthorized construction.

From the instruction produced before this Court by the learned advocate representing the Kolkata Municipal Corporation signed by the Sub-Assistant Engineer, Assistant Engineer and the Executive Engineer (Civil)/ Building Department/Borough-VII on 22.03.2023, it appears that Shakespeare Sarani Police Station was intimated for necessary action and for round the clock police watch.

Department has taken steps under Section 400(8) of the Kolkata Municipal Corporation Act, 1980 and demolished a portion of the aforesaid

structure at the time of inspection on 22.03.2023 and it was found that the structure lies in the same state as it was after demolition. Aforesaid report of the engineers of the Kolkata Municipal Corporation appears to be quite vague. The date of demolition under Section 400(8) of the Act has not been mentioned. The nature of demolition is also not clear.

Report filed by the Officer-in-Charge, Shakespeare Sarani Police Station signed on 23.03.2023 also does not clearly mention that the construction work is kept suspended. It merely mentions that round the clock police picket was made to ensure that no construction work is carried out at the subject premises but whether at all the said police picket is enough to ensure that no construction work is going on, is not evident from the report.

The picture highlighted by the petitioners before the Court is absolutely contrary to what has been placed by the Corporation and the police.

Report of the Corporation mentions that the person responsible constructed one floor at the rear side of the existing building over and above the first floor with R.C.C. roof on M.S. structure.

It is the duty of the Corporation to act in accordance with law and deal with any unauthorized construction made in contravention of the provision of law.

As it appears that the illegal and unauthorized construction has already been detected and some steps have been taken by the authority to deal with the same, accordingly, the Executive Engineer (Civil)/ Building Department, Borough-VII is directed to take prompt necessary steps to deal with such

unauthorized construction in accordance with law, at the earliest but positively within a period of twelve weeks from the date of communication of this order.

Officer-in-Charge, Shakespeare Sarani Police Station is directed to continue with the police picket so that the construction work in any manner whatsoever is not carried out at the subject premises till the matter is finally decided by the Kolkata Municipal Corporation.

The writ petition stands disposed of.

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

(AMRITA SINHA, J.)