

OD-3

ORDER SHEET

WPO No.886 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

KHOKAN DAS
VS.
STATE OF WEST BENGAL & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date:20th April, 2023.

Appearance:
Mr. Somnath Gangopadhyay, Adv.
..for the Petitioner.

Mr. Tapan Coomer Dey, Adv.
Mr. Debangshu Mondal, Adv.
..for KMC.

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

The Court:-The matter relates to the premises no. B/16/2/H/7, Nandalal Bose Lane, P.S. Shyampukur, Kolkata- 700003, Ward No.-7, Borough-I of the Kolkata Municipal Corporation.

The property in question is a thika property. The petitioner was carrying on construction work at the said property without obtaining any permission/sanction from the authority. A notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 was issued on 16.02.2023. Thereafter no steps have been taken by the authority. The petitioner is aggrieved by the same.

The petitioner prays for a direction upon the authority to conclude the proceeding, if any, and thereafter permit the petitioner to continue with the construction work.

Learned advocate appearing on behalf of the petitioner admits that no permission or sanction has been granted by the authority.

Learned advocate representing the Kolkata Municipal Corporation has received instruction from the Assistant Engineer [Civil], Building Department, Borough-I, Kolkata Municipal Corporation signed on 19.04.2023, wherefrom it appears that departmental inspection revealed RCC columns to be erected upto ground floor roof level and work is going on. Section 401 notice was issued with intimation to the police. File has been sent before the higher authority for information and necessary action.

Further departmental inspection on 19.04.2023 revealed that the persons responsible resumed the construction work defying the stop work notice and has also casted RCC slabs upto the second floor roof level supported by RCC columns.

From the instruction forwarded by the Assistant Engineer [Civil] of the concerned Borough it appears that despite issuance of the notice to stop work, the petitioner is continuing with the unauthorized construction. The same is absolutely impermissible in law.

The Executive Engineer [Civil] of the concerned Borough is directed to take steps to deal with the unauthorized construction in accordance with law after giving a reasonable opportunity of hearing to all the necessary parties and conclude the hearing at the earliest, but positively within a period of twelve weeks from the date of communication of this order.

The Officer-in-Charge of the Shyampukur Police Station is directed to keep strict vigil over the property and ensure that construction in any manner

whatsoever is not carried out at the subject premises till the matter is finally decided by the Corporation.

Writ Petition stands disposed of.

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

Instruction filed by the Assistant Engineer [Civil], Kolkata Municipal Corporation signed on 19.04.2023 be retained with the records.

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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