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ORDER SHEET
WPO No.1252 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SANTOSH KUMAR GUPTA AND ANR.
VERSUS
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date:30th June, 2023.

Appearance:
Mr. Raghunath Chakraborty, Adv.
Mr. Supratik Shyamal Adv.
Mrs. Peu R. Mallick, Adv.
Mrs. D. Das Som, Adv.
....for the Petitioners.

Mr. Barin Banerjee, Adv.
Mr. Srijan Nayek, Adv.
Ms. Sima Chakraborty, Adv.
... for K.M. C.

The Court:- The matter relates to the premises no.18, Acharyya Prafulla Chandra Road, Ward No.49, Borough-V, Kolkata-700009 under the jurisdiction of the Kolkata Municipal Corporation.

The petitioners allege that steps were taken for demolition of a tin shed which was put up to prevent sunlight and rain water from percolating inside the premises in question.

The petitioners allege that steps for demolition were taken without granting an opportunity of hearing to the petitioners.

The Concerned Executive Engineer (Civil)/Building Department of the Kolkata Municipal Corporation is personally present in Court today and has filed a report before this Court wherefrom it appears that a stop work notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 was sought to be served upon the persons responsible and a date of hearing was also fixed but the person responsible refused to accept the notice under

Section 400(1) of the Act. Copy of the hearing notice and show cause notice was affixed on 01.06.2023 on the outer wall of the captioned premises and the person responsible remained absent at the time of hearing on 07.06.2023.

The order of demolition was passed on 07.06.2023 and the said order was sought to be served upon the person responsible but as the same was refused, the order of demolition affixed on the outer wall of the premises.

The date of demolition was fixed on 13.06.2023 but in view of the interim protection granted by the Court, demolition could not take place.

It appears from the submissions made on behalf of both the parties that the person responsible, for same reason or the other, missed the opportunity of hearing. For ends of justice let a further opportunity be given to the person responsible to place his case before the concerned officer to defend the construction made.

As the Executive Engineer is present in Court today, accordingly, the date of hearing is fixed by consent of the parties.

The Executive Engineer shall afford an opportunity of hearing to the petitioners and/or their authorised representatives on 08.07.2023 at 12 Noon.

The Executive Engineer shall forward all documents in connection with the demotion proceeding to the learned advocate representing the petitioners by 05.07.2023. The learned advocate of the petitioner shall, on behalf of the petitioner, accept all notices and documents in connection with the instant case.

Requirement of serving further notice of hearing is dispensed with.

The concerned Executive Engineer shall pass a reasoned order upon perusing all documents. A reasoned order shall be passed and communicated to the petitioners within a fortnight thereafter.

The impugned order of demolition accordingly, stands set aside.

The writ petition stands disposed of.

Report filed by the Executive Engineer (Civil)/Building Department, Borough Nos. IV & V signed on 30.06.2023 be retained with the records.

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

(AMRITA SINHA, J.)