

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SURAJIT BISWAS
VERSUS
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE :
THE HON'BLE JUSTICE AMRITA SINHA
Date : 3rd July, 2023.

Appearance:
Mr. Partha Sarathi Deb Barman, Adv.
Mr. Amit Gupta, Adv.
...for the petitioner.

Mr. Gopal Chandra Das, Adv.
Mr. Santanu Chattopadhyay, Adv.
...for the KMC.

The Court:-The matter relates to the premises No. B/16/1B/H/2, Nandalal Bose Lane, Kolkata- 700003 under Ward No.7, Borough- VII, Kolkata Municipal Corporation.

A notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 was issued to Sandhyarani Das and Gita Sarkar & Ors. on 10.05.2023 directing the person responsible for carrying on the construction work to forthwith stop all construction works including addition and/or alteration at the above premises as the same was being conducted without any sanction.

Learned advocate for the petitioner submits that a four storied building exists at the subject premises and only repairing work was being done. The petitioner further submits that after issuance of the stop work notice, the Corporation did not take any further steps in the matter.

Prayer has been made for issuance of Writ of Mandamus commanding the respondents to show cause as to why further proceedings

under Section 400(1) of the Kolkata Municipal Corporation Act, 1980 should not be initiated and concluded.

Learned advocate representing the Kolkata Municipal Corporation is yet to receive instruction in the matter.

It appears from the submissions made on behalf of the parties and upon perusal of the material on records that stop work notice was issued by the Corporation on detection of certain unauthorized construction carried on at the subject premises.

The Corporation after issuance of the stop work notice ought to take steps to deal with the unauthorized construction, if any, in accordance with law. The Corporation ought not to sit tight over the matter only after issuance of the stop work notice.

In view of the above, the Executive Engineer of the concerned Borough is directed to take further consequential steps in the matter after issuance of the notice under Section 401 to deal with any unauthorized construction that has been detected at the subject premises.

The aforesaid respondent may initiate proceedings in accordance with law and conclude the same after giving a reasonable opportunity of hearing to all the necessary parties.

A reasoned order shall be passed within a period of twelve weeks from the date of communication of this order and the same shall be communicated to the parties immediately thereafter.

In the event, it appears that there is no unauthorized construction, then the person responsible shall be permitted to conclude the construction work that is going on.

The writ petition stands disposed of.

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

(AMRITA SINHA, J.)

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