

ORDER SHEET

CC 70 of 2019
WPO/326/2019
IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (CONTEMPT)
ORIGINAL SIDE

SULTANA BEGUM
VS
MRS. NIBEDITA SHARMA AND ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date: 16th February, 2023.

Appearance:
Mr. Ataur Rahman, Adv.
...For the Petitioner
Mr. Gurudas Mitra, Adv.
Mr. Jayanta Dhar, Adv.
...For contemner no. 1

The Court: The instant contempt application has been filed alleging violation of the direction passed in the order dated 20th September, 2019. By the said order, the Court directed the Corporation to complete the proceeding under Section 400 of the KMC Act within a stipulated time period. The Court restrained the respondent nos. 8 and 9 from carrying on any construction or further construction at the subject premises and the Officer-in-Charge, Karaya Police Station was directed to ensure that the private respondents do not carry on any further construction at the premises.

Learned counsel representing the alleged contemnor no. 3, Mrs. Nibedita Sharma, Councillor, Ward no. 65, KMC submits that the Corporation concluded the demolition proceeding by invoking Section 400(8) of the KMC Act, 1980. The matter was placed before the Mayor-in-Council for approval and by an order dated 9th August, 2019 the Mayor-in-Council approved the action under Section 400(8) of the KMC Act, 1980.

Learned advocate for the petitioner submits that despite invoking the provision under Section 400(8) of the KMC Act, the Corporation is yet to demolish the unauthorised construction.

This Court is of the opinion that the order dated 20th September, 2019 was only restricted to conclusion of the demolition proceeding. No order was passed for demolition of the unauthorised construction by the Court. The Corporation has invoked provision of Section 400(8).

In the event, the Corporation has not taken steps for demolition of the unauthorised construction despite invoking the aforesaid provision, the same is to be taken up in a fresh proceeding and cannot be adjudicated in the contempt application.

In view of the above, the contempt application stands disposed of.

It will be open for the petitioner to initiate appropriate proceeding in accordance with law for redressal of her grievance, if so advised.

Instruction given by the learned advocate representing the Corporation 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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