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ORDER SHEET
WPO No.1376 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

MD. SHAHNAWAZ QURESHI
-Versus-
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date:12th July, 2023.

Appearance:
Mr. Ranajit Chatterjee, Adv.
Mr. Aniruddha Mitra, Adv.
...for Petitioner.

Mr. Gurudas Mitra, Adv.
Mr. Jiaur Rahman, Adv.
...for KMC.

Mr. K. A. Rahman, Adv.
Mr. Raish Ahmed, Adv.
...for Mr. Khalidur Rahman.

Ms. Joyee Maiti, Adv.
...for State.

The Court:- The petitioner complains of illegal and unauthorized construction at the instance of the private respondent at premises no.14/1, Taltala Lane, Ward no.53, Borough – VI under jurisdiction of Kolkata Municipal Corporation.

The allegation is that the construction has been made without valid sanctioned plan by not maintaining the mandatory side open spaces.

Complaint was lodged before the authorities of the Kolkata Municipal Corporation and the petitioner alleges that the same has not been taken up for consideration till date.

Learned advocate representing the Kolkata Municipal Corporation has produced a report before this Court signed by the Sub-Assistant Engineer (Civil), Assistant Engineer (Civil) and Executive Engineer (Civil)/Building Department, Borough – VI on 11th July, 2023, mentioning that the subject premises was inspected and it was found that a partly five-storied building

exists at the subject premises. As per available office record, a sanction plan was granted for construction of four-storied residential building of height 11 meter on 13.03.2003.

Report placed on behalf of the Kolkata Municipal Corporation in Court today does not mention anything with regard to additional floor that has been constructed. The report mentions that the plan was sanctioned for construction of four-storied residential building but the inspection report clearly mentions about existence of a partly five-storied building.

None appears on behalf of the respondent no.5.

Mr. K. A. Rahman, learned advocate appears and submits that his client Khalidur Rahman is the structure owner of the subject structure.

It has been submitted that the respondent no.5 is not the structure owner but admitted that the respondent no.5 is the brother of the aforesaid person. It has been submitted that the additional floor was constructed in the year 2003 and the same had been regularized by the Corporation in the year 2005.

Be that as it may, as a formal complaint alleging unauthorized construction is pending consideration at the end of the Kolkata Municipal Corporation, accordingly, the respondent no.3 being the Executive Engineer (Civil), Building Department, Borough-VI of the Kolkata Municipal Corporation is directed to conduct further spot inspection upon notice to all the necessary parties to ascertain the nature and extent of the unauthorized construction.

Aforesaid respondent shall consider the matter after giving a reasonable opportunity of hearing to all the necessary parties for

production of documents in support of their claims and thereafter take a decision as to whether there is any unauthorized construction or not.

In the event unauthorized construction is detected, necessary steps shall be taken to deal with the same in accordance with law. The aforesaid respondent shall endeavour to conclude the entire exercise at the earliest but positively within a period of twelve weeks from the date of communication of this order.

It appears that the petitioner has also lodged a complaint before the local Police Station alleging illegal activities on the part of the private respondents. The police will act in response to the complaint lodged by the petitioner.

The writ petition stands disposed of.

Report filed by the Officer-in-Charge, Taltala Police Station dated 10.07.2023 is taken on record.

Affidavit of service filed in Court today is taken on 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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