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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/1405/2023

GOPINATH SIRCAR
VS
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
THE HON'BLE JUSTICE AMRITA SINHA
Date :27th July, 2023.

Appearance:
Mr. Anirban Majumder, Adv.
...for Petitioner.

Mr. Debjit Mukherjee, Ms. Susmita Chatterjee, Advs.
...for KMC.

Mr. Kalyan Kr. Panda, Mr. Sabyasachi Bhattacharjee, Advs.
...for Respondent Nos. 10-13.

The Court:-The matter relates to the premises no.73A, Pathuriaghat Street, Kolkata-700006, Ward No. 21, Borough-IV under the jurisdiction of the Kolkata Municipal Corporation.

The petitioner alleges illegal and unauthorized construction at the behest of the private respondents.

Learned advocate representing the private respondents submits, upon instruction that, the construction work is going on in accordance with the plan sanctioned.

Learned advocate representing the Kolkata Municipal Corporation has produced the instruction forwarded by the Sub-Assistant Engineer (Civil)/Building, Assistant Engineer (Civil)/Building and the Executive Engineer (Civil)/Building of the concerned Borough signed on 26.07.2023 clearly mentioning that a plan was sanctioned for reconstruction of a G+2

storied residential building under Rule 3(2) of the KMC Building Rules, 2009 read with Section 410 of Kolkata Municipal Corporation Act, 1980 in November, 2022. A portion of the third floor was also sanctioned under Circular No.9 of 2013-14.

During construction the total building was demolished and new RCC framed structure was started from foundation and ground floor in deviation and violation of conditions of the building sanctioned plan.

A stop work notice under Section 401 of the Act was served upon the person responsible on 21.07.2023 with intimation to the Police Station on 22.07.2023.

Learned advocate representing the petitioner submits that despite the stop work notice issued, the private respondents are merrily carrying on construction work. They are also threatening the petitioner to withdraw the instant writ petition.

It appears from the submissions made on behalf of all the parties and upon perusal of the instruction forwarded by the engineers of the Corporation that unauthorized construction has been detected. Accordingly, the Executive Engineer of the concerned Borough is directed to take prompt necessary steps to deal with such unauthorized construction in accordance with law at the earliest.

A reasonable opportunity of hearing shall be given to all the necessary parties prior to passing a final order of the matter.

The Executive Engineer shall endeavour to conclude the proceedings at the earliest, but positively within a period of twelve weeks from the date of communication of this order.

The Officer-in-Charge, Jorabagan Police Station is directed to ensure and keep strict vigil over the property so that construction in any manner whatsoever is not carried out at the subject premises till the matter is finally decided by the Kolkata Municipal Corporation.

The writ petition stands disposed of.

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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