

OD-4

WPO/1435/2023

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

DR. SANJAY GUPTA

-Versus-

THE KOLKATA MUNICIPAL CORPORATION
AND ORS.

BEFORE

The Hon'ble Justice AMRITA SINHA

Date: 25th July, 2023

APPEARANCE:

Mr. Niloy Sengupta, Adv.

Mr. Sujit Banerjee, Adv.

...for the petitioner.

Mr. Swapan Kumar Debnath, Adv.

...for the KMC.

The Court: None appears on behalf of the private respondent despite service. Affidavit of service filed in Court, is taken on record.

The matter relates to certain construction at premises No.170 (Portion), Ahiritola Street, Ward No.19, Borough-II under the jurisdiction of the Kolkata Municipal Corporation. The petitioner alleges illegal and unauthorised construction at the behest of the private respondent. A complaint was lodged before the Corporation and the petitioner alleges that the same has not been considered and disposed of till date.

The complaint lodged before the Officer-in-Charge, Jorabagan Police Station by the Assistant Engineer of Borough-II of 1st June, 2023 mentions that construction is going on without any sanction.

The petitioner submits that despite complaint lodged before the Officer-in-Charge of the Jorabagan Police Station, the person responsible is merrily carrying on with the construction work in such a manner that the construction has touched the boundary wall of the petitioner.

Repeated representations were filed before the Corporation but there is no action on the part of the Corporation till date.

Learned advocate representing the Kolkata Municipal Corporation has obtained instruction from the Executive Engineer, Building Department, Borough-II, signed on 22nd July, 2023, wherein it has been mentioned that the same is a case of unauthorised construction without taking permission from the Corporation. During the inspection it was revealed that a single storied RCC framed structure along with extended columns over the ground floor room is going on. To stop the construction work, notice under Section 401 of the KMC Act, 1980 was served with intimation to Jorabagan Police Station.

Further inspection revealed that despite the stop work notice, the person responsible resumed the construction work. Accordingly, FIR under Section 401A of the KMC Act, 1980 was lodged. The file has presently been forwarded to the higher authority for processing under Section 400 and its suitable sub-sections.

From the submission made on behalf of both the parties and upon perusal of the materials on record, as well as the instruction forwarded by the concerned Engineer, it appears that the allegation of the

petitioner is, indeed, correct. Unauthorised construction has been detected. The file is reported to be pending before the higher authority for necessary action.

The concerned authority of the Corporation ought to take prompt necessary steps to prevent any further construction being made. The person responsible is continuing with the construction work defying the stop work notice. The same calls for immediate action against the person responsible. Any delay on the part of the Corporation will give a handle to the person responsible to raise further unauthorised construction.

In view of the above, the instant writ petition, WPO/1435/2023, is disposed of by directing the Executive Engineer of the concerned Borough to take prompt necessary steps to deal with the unauthorised construction in accordance with law at the earliest but positively within a period of eight weeks from the date of communication of this order. A reasoned order shall be passed and communicated to the parties immediately thereafter.

As the Corporation has already detected unauthorised construction, the Officer-in-Charge of Jorabagan Police Station is directed to keep strict vigil over the property to ensure that construction in any manner whatsoever is not carried out at the subject premises till the matter is finally disposed of by the Kolkata Municipal Corporation.

(AMRITA SINHA, J.)