

ORDER SHEET
WPO No.1442 of 2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

MAHARGHYA MUKHERJEE
VS
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date:27th July, 2023.

Appearance:
Mr. Debashis Banerjee, Adv.
Mr. Suprem Naskar, Adv.
Mr. Rakesh Jana, Adv.
...for Petitioner.

Mr. Biswajit Mukherjee, Adv.
Ms. Manisha Nath, Adv.
...for KMC.

The Court:-None appears on behalf of the private respondent despite service.

The petitioner is aggrieved by the notice dated 07.07.2023 issued by the Assistant Manager (Advertisement Department) of the Kolkata Municipal Corporation directing the petitioner for immediate removal of the unauthorized private hoarding at premises no. 21/3, Khudiram Bose Sarani, P.S.-Tala, Kolkata-700037, Ward No. 5 under Borough-I, for which no approval has been granted by the Corporation.

The petitioner was directed for immediate removal of the said hoarding failing which the Corporation would dismantle the same without any further intimation and appropriate penal action will be taken as per provision of the Kolkata Municipal Corporation Act, 1980. As the petitioner failed to act in accordance with the said notice, the men and agents of the Corporation dismantled the hoarding.

The petitioner submits that he is not the owner of the hoarding but has right to enjoy the roof of the said structure.

The petitioner apprehends that the Corporation may take penal action against him for construction of the structure on which the hoarding was affixed even though he is not the owner of the hoarding in question.

The petitioner filed an objection before the Assistant Manager (Advertisement Department) of the Kolkata Municipal Corporation on 11.07.2023. Prayer has been made for directing the said authority to consider the said representation.

Learned advocate representing the Corporation submits, upon instruction that, the petitioner had himself permitted the private respondents to put up the said hoarding. Accordingly, the petitioner would be vicariously liable to take all responsibility of the said hoarding.

Provision of Section 208A of the Kolkata Municipal Corporation Act, 1980 has been relied upon which permits removal of any unauthorized structure/hoarding.

It appears that till date no penal action has been taken against either the petitioner or the private respondent. Representation filed by the petitioner is pending consideration at the end of the respondent authority.

Without going into the merits of the said representation, as it appears that the same is pending consideration before the authority in connection with the impugned notice dated 07.07.2023, accordingly, the instant writ petition is disposed of by directing the Assistant Manager, Advertisement Department of the Kolkata Municipal Corporation being

the respondent no.3 herein to consider the said representation in accordance with law after giving a reasonable opportunity of hearing to all the necessary parties. A reasoned order shall be passed and communicated to the parties at the earliest.

The writ petition stands disposed of.

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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