

ORDER SHEET
WPO No.1449 of 2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SURESH PRASAD GUPTA
VS
KOLKATA MUNICIPAL CORPORATION & ORS.

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

Appearance:
Mr. Arindam Banerjee, Adv.
Ms. Sinthia Bala, Adv.
...for Petitioner.

Mr. Nilanjan Chatterjee, Adv.
Mr. Saurav Chaudhuri, Adv.
...for KMC.

Mr. Abhijit Ray, Adv.
..for Respondent No.4.

The Court:-The petitioner is aggrieved by the demolition work conducted by the men and agents of the Kolkata Municipal Corporation pursuant to notice issued under Sections 544 & 546 of the Kolkata Municipal Corporation Act, 1980 in respect of the unauthorized construction at premises no.3A, Ganguly Lane, Ward No.22, Borough-IV.

It appears that the demolition work is being executed in compliance of an order of the Executive Engineer (Civil) dated 09.06.2023 under Section 400 (1) of the Kolkata Municipal Corporation Act, 1980.

The petitioner happens to be a tenant in a portion of the subject premises just super adjacent to the top of the tenanted portion. The petitioner submits that the roof of his tenanted room is being damaged in the manner in which the demolition work is being conducted. The demolition work is being executed by the Corporation. It has been

submitted that no notice or copy of the order of the demolition proceeding was neither issued nor served upon the petitioner.

It has been submitted that a suit has been filed by the petitioner against the landlord and the Kolkata Municipal Corporation being T.S. No.779 of 2023 and an order of injunction has been passed by the learned Court below on 25.04.2023 whereby the learned Court was pleased to restrain the landlord and his men, agents and servants from ousting and disturbing the peaceful user of the petitioner in respect of the suit premises unless and until an alternative accommodation has been provided to him till completion of the renovation work as per the established rule.

The petitioner admits that the construction which is being demolished has not been made by him. The petitioner has categorically stated in Court that the petitioner is not the person responsible for raising the construction which has been held to be unauthorized and is being demolished by the Corporation.

Learned advocate representing the private respondent, being the landlord of the subject premises, submits that the landlord is also not responsible for making such unauthorized construction. The Corporation detected unauthorized construction and has taken steps for demolishing the same.

Learned advocate representing the Kolkata Municipal Corporation has produced a report before this Court signed by the Sub-Assistant Engineer (Civil)/Building, Assistant Engineer (Civil)/Building and the Executive Engineer (Civil)/Building/ Borough-IV & V dated 26.07.2023, wherein it has been mentioned that on receiving a telephonic complaint

the engineers of the Building Department inspected the site and to stop the unauthorized construction served stop work notice with intimation to the Posta Police Station. An FIR was also lodged.

Subsequently, demolition case was initiated and an order of demolition was passed. As the person responsible failed to demolish the unauthorized construction, the Corporation took steps for demolishing the same.

It appears from the submissions made on behalf of the parties that neither the owner nor the occupiers/tenants, that is, the petitioner herein, takes responsibility of the construction that has been held to be unauthorized. Accordingly, the men and agents of the Corporation shall take steps to demolish the same by taking necessary precaution so that the tenanted portion of the petitioner does not get affected at the time of the execution of the work of demolition.

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.)