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ORDER SHEET
WPO No.1458 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SOUMITRA DAS
VERSUS
THE STATE OF WEST BENGAL & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA
Date:3rd August, 2023.

Appearance:
Mr. Gopal Pahari, Adv.
Mrs. Piyali Kulavi, Adv.
...for Petitioner.

Mr. Nianjan Chatterjee, Adv.
Ms. Sabnam Sultana, Adv.
...for KMC.

Mr. Debjit Mukherjee, Adv.
Ms. Rupsha Chakraborty, Adv.
...for State.

The Court:- The petitioner complains of illegal and unauthorized construction at premises no.12C, Rai Charan Pal Lane, Ward No.59, Borough-VII under the jurisdiction of the Kolkata Municipal Corporation.

The petitioner submits that construction is being made without any sanction and without maintaining the mandatory side open spaces.

A complaint was lodged before the Corporation in July, 2023 but the same is alleged to be kept pending.

Learned advocate representing the Corporation submits, upon instruction that, the department inspected the premises and found that the person responsible erected three storied RCC column along with RCC column over it, all without sanction.

Department issued stop work notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 dated 22.07.2023 with intimation to the Officer-in-Charge, Topsia Police Station. The matter has been processed under Section 400(1) of the Act.

Instruction filed by the Sub-Assistant Engineer (Civil), Assistant Engineer (Civil) and the Executive Engineer (Civil)/ Building/Borough-VII dated 31.07.2023 be retained with the records.

Officer-in-Charge, Topsia Police Station has forwarded a written instruction signed on 1st August, 2023 mentioning that strict vigil is being maintained over the said premises to prevent any unauthorized construction.

The petitioner has annexed photographs to show the progress of the construction work.

Though the police have mentioned that strict vigil is being kept over the property so that no unauthorized construction takes place, but in fact the construction work is still continuing as submitted by the learned advocate representing the petitioner.

As the Corporation has detected unauthorized construction and the matter is being proceeded under Section 400(1) of the Act, accordingly, the Corporation is directed to take prompt necessary steps to arrest any further unauthorized construction at the subject premises and to deal with such unauthorized construction in accordance with law after giving a reasonable opportunity of hearing to all the necessary parties.

The proceeding shall be concluded at the earliest but positively within a period of twelve weeks from the date of communication of this order.

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

Service upon the private respondent could not be effected as the postal envelope has returned un-served with endorsement 'Left without instruction for building under construction'. Un-served envelope be retained with the records.

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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