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ORDER SHEET
WPO No.1528 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

RAVI SHANKAR ROUT
VERSUS
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date:30th August, 2023.

Appearance:
Mr. Supratik Shyamal, Adv.
Ms. S. Dutta, Adv.
...for the Petitioner.

Mr. Barin Banerjee, Adv.
Ms. Manisha Nath, Adv.
...for the KMC.

Ms. Joyee Maiti, Adv.
...for the State.

The Court:-The petitioner alleges illegal and unauthorized construction at the behest of the private respondent at premises no.8, Pagladanga 1st Lane. P.O. & P.S.-Tangra, Kolkata-700015 under Ward No.57, Borough No.VII of the Kolkata Municipal Corporation.

Complaint was lodged before the respondent authority in June, 2022. The petitioner complains that no steps have been taken by the Corporation till date.

Instruction forwarded by the engineers of the Corporation mentions that the premises is a vast one. Department inspected the premises and found that person responsible has constructed single storied structure without any sanction building plan. Department has issued stop work notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 on 25th August, 2023 with intimation to the Officer-in-Charge, Tangra Police Station. The matter has been processed under Section 400(1) of the Kolkata Municipal Corporation Act, 1980.

None appears on behalf of the private respondent, despite service.

Leave granted to the learned Advocate-on-record of the petitioner to file affidavit of service in course of the day.

From the instruction forwarded by the engineers of the Corporation, it appears that though complaint was lodged more than a year back, the engineers did not take care to consider the said complaint. After the writ petition has been filed, the engineers inspected the premises and found construction of the single storied structure. Had the engineers of the Corporation taken steps at the right time, the structure may not have been constructed at all. The engineers of the Corporation ought to take immediate steps on receipt of the complaint and should not have been waited for such a long period of time compelling the complainant to approach the Court for relief.

Inaction on the part of the engineers of the Corporation makes it clear that they tacitly permitted the person responsible to carry out the construction despite having knowledge that a complaint was lodged complaining of unauthorized construction. The action of the engineers is viewed very seriously.

The Commissioner of the Kolkata Municipal Corporation is directed to take necessary steps against the engineers who failed to take active necessary steps in response to the complaint lodged by the complainant petitioner.

As it appears that the issue of the unauthorized construction is presently being processed under Section 400(1) of the Kolkata Municipal Corporation Act, 1980, the concerned officer is directed to take prompt necessary steps to deal with the unauthorized construction in accordance with law at the earliest, but positively within a period of twelve weeks from the date of communication of this order.

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

The Officer-in-Charge, Tangra Police Station is directed to keep strict vigil over the property to ensure that construction in any manner whatsoever does not take place at the subject premises.

Writ petition stands disposed of.

Report filed by the Officer-in-Charge, Tangra Police Station 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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