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ORDER SHEET
WPO No.1541 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

AINUL HAQUE
VERSUS
THE STATE OF WEST BENGAL & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA
Date: 1st September, 2023.

Appearance:
Ms. Debangana Dey Nayak, Adv.
Mr. Amit Gupta, Adv.
....for the Petitioner.

Mr. Srijan Nayak, Adv.
Ms. Pausali Banerjee, Adv.
... for K.M.C.

Mr. Vivek Basu, Adv.
...for Respondent Nos.1 & 2.

The Court:-The petitioner alleges illegal and unauthorized construction at premises no. 166/H/47, Keshab Chandra Sen Street, Amherst Street Police Station, Ward No. 37, Borough-IV & V of the Kolkata Municipal Corporation.

The petitioner alleges that the complaint filed against such unauthorized construction has not been considered by the respondent authority till date.

There is no proof of service upon the respondent No.7. Affidavit of service filed in Court today is taken on record.

Learned advocate representing the Kolkata Municipal Corporation submits, upon instruction that, preliminary inspection was conducted which revealed unauthorized construction being made at the subject premises. Intimation has been given to the Amherst Street Police Station.

Learned advocate representing the State respondents produces the instruction forwarded by the Officer-in-Charge of the Amherst Street Police Station signed on 31.08.2023 which mentions that the police received the complaint from the Corporation alleging unauthorized construction. After receiving the complaint, Amherst Street P. S. Case No. 169/23 under Section 401(A) of the Kolkata Municipal Corporation Act has been diarized against one Md. Omar Ansari and others and the investigation of the case is in progress.

Contention of the police is that strict vigil is being maintained to restrain the person(s) responsible from carrying on illegal construction.

In response to the aforesaid submission, learned advocate representing the petitioner submits that the illegal construction is going on day in and day out and even today the construction is going on.

From the documents annexed to the instruction forwarded by the police authorities, it appears that complaint was lodged by the Assistant Engineer (Civil) of the concerned Borough before the Officer-in-Charge of the Amherst Street Police Station on 16.08.2023. An FIR was lodged on 17th August, 2023. But the petitioner complains that the construction work is still going on.

The complaint of the Kolkata Municipal Corporation before the police reveals that the construction is going on without obtaining any building sanctioned plan. The same is absolutely impermissible in law.

In view of the above, the Executive Engineer of the concerned Borough is directed to take prompt necessary steps to deal with such unauthorized 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 reasonable opportunity of hearing shall be given to all concerned.

Officer-in-Charge of the Amherst Street 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.

Instruction forwarded by the Officer-in-Charge of the Amherst Street Police Station be retained with the records.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)