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ORDER SHEET
WPO No.1584 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

GOPAL ROY
VS.
THE STATE OF WEST BENGAL & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date:15th September, 2023.

Appearance:
Mr. Dyutiman Banerjee, Adv.
Mr. Sourat Nandy, Adv.
... for the Petitioner.

Mr. Biswajit Mukherjee, Adv.
Mr. Atis Kumar Biswas, Adv.
... for KMC.

Mr. Sukalpa Seal, Adv.
...for State.

Mr. Subhojyoti Dutta, Adv.
Mr. Deb Kumar Deushi, Adv.
Mr. Joydeep Dey, Adv.
...for Respondent nos.9 & 10.

The Court:-The petitioner claims to be the power of attorney holder of the owner of the premises no. B/19H/H/1, Harish Neogi Road, Ward No.14, Kolkata- 700067 under jurisdiction of the Kolkata Municipal Corporation.

On detection of unauthorized construction, the Corporation issued a stop work notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 on 24.12.2014.

Petitioner submits that thereafter no step was taken by the Corporation for so many years. All on a sudden the Corporation is presently taking steps for demolition of the construction. Petitioner prays for regularization of the unauthorized construction.

Representation filed by the petitioner before the Corporation on 10.07.2023 mentions about a demolition sketch of the three storied building which was forwarded to the Corporation for regularization.

Representation mentions that the petitioner is residing in the first and second floor of the premises and is running business from the ground floor. Trade license had been issued in favour of the petitioner by the Corporation.

It appears that the owner of the subject premises has neither been impleaded as party respondent nor has approached the Court for relief. Petitioner claiming to be the power of attorney holder of the owner has filed the instant writ petition.

The Court is not convinced with the locus of the petitioner in approaching this Court.

According to the provision of law, construction can be made only after obtaining sanction and not prior thereto.

In the present case, admittedly, construction was made in an unauthorized manner. Unauthorized construction cannot be said to be regularized by passage of time. Stop work notice was issued by the Corporation in the year 2014. The Corporation ought to have proceeded with the matter and concluded the proceeding to deal with the unauthorized construction in a time bound manner. Nearly ten years have elapsed in the meantime. It is high time that the Corporation takes step to deal with the unauthorized construction.

No relief can be granted to the petitioner in the instant writ petition.

Writ petition fails and is hereby dismissed.

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.)