

OD-7

ORDER SHEET
WPO No.1653 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SRI SIMAB BABU
VERSUS
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA
Date: 10th October, 2023.

Appearance:
Mr. Arindam Banerjee, Adv.
Mr. Arnab Dutt, Adv.
Ms. Labani Dey, Adv.
....for Petitioners.

Mr. Srijan Nayak, Adv.
Mr. Subhrangsu Panda, Adv.
... for K.M.C.

Mrs. Papiya Banerjee Bihani, Adv.
...for State.

The Court:- Perused the report filed by the engineers of the Corporation.

It appears therefrom that the Corporation issued building sanctioned plan under Rule 142 of the Kolkata Municipal Corporation Building Rules, 2009 for erection of a G+4 storied residential building.

On receiving complaint, the site was inspected and deviations were detected. Stop work notice was served with intimation to the local Police Station. FIR was also lodged before the Posta Police Station.

Hearing under Section 400(1) of the Kolkata Municipal Corporation Act, 1980 was conducted by the Executive Engineer but the person responsible failed to attend the hearing. Demolition order was passed and executed with the help of police on 19th September, 2022 and 3rd May, 2023 and a considerable portion of the unauthorized construction was demolished.

Further departmental inspection revealed that the person responsible encroached mandatory side open spaces in deviation of the building sanctioned plan. Another demolition programme was fixed on 26.09.2023 but the demolition did not take place in view of the interim order passed by this Court.

It appears from the information forwarded by the Corporation that proceeding for demolition under Section 400(1) of the Kolkata Municipal Corporation Act, 1980 was undertaken and an order of demolition was passed.

The order of demolition is an appealable one. Any person aggrieved by the order of demolition may approach the appellate forum for relief.

It will be open for the petitioner to approach the appellate forum for obtaining necessary order.

The Court is not inclined to interfere in the present writ petition. Writ petition fails and is hereby dismissed.

It will be open for the petitioner to make an application for obtaining certified copy of the order of demolition. If an application is made for obtaining certified copy of the said order, the same shall be supplied within 48 hours thereof subject to payment of necessary charges.

Instruction filed by the Officer-in-Charge, Posta Police Station be retained with the records.

The interim order stands vacated.

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

(AMRITA SINHA, J.)