

WPO No.1688 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

GOPINATH SIRCAR
VERSUS
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 17th October, 2023.

Appearance:
Mr. Anirban Majumder, Adv.
...for petitioner.

Mr. Gopal Chandra Das, Adv.
Mr. Debangshu Mondal, Adv.
... for KMC.

Ms. Noelle Banerjee, Adv.
...for Respondent Nos.8 & 9.

Mr. Rudranil De, Adv.
Mr. Arunava Ganguly, Adv.
...for Respondent Nos.10 to 13.

The Court:-The issue of illegal construction at the time of making construction in premises no.73A, Pathuriaghat Street Kolkata-700006, Ward No.21, Borough- IV under the jurisdiction of the Kolkata Municipal Corporation was taken up for consideration by this Court in the earlier writ petition filed at the instance of the petitioner being WPO No.1405 of 2023.

The matter was disposed of by the Court on 27th July, 2023 taking into consideration the instruction forwarded by the engineers of the Corporation.

It appears that plan was sanctioned for reconstruction of a G+2 storied residential building under Rule 3(2) of the Kolkata Municipal Corporation Building Rules, 2009 read with Section 410 of the Kolkata Municipal Corporation Act, 1980 in November, 2022. A portion of the third floor was also sanctioned under Circular No.9 of 2013-14.

The Executive Engineer of the concerned Borough was directed to conclude the proceeding to deal with the unauthorized construction that was detected.

The Officer-in-Charge, Jorabagan Police Station was directed to ensure and keep vigil over the property so that the construction in any manner whatsoever

could not be carried out at the subject premises till the matter is finally decided by the Corporation.

In the present writ petition, the petitioner has alleged that despite order passed by the Court construction was going on in full swing. It has been admitted that an opportunity of hearing was granted but final order is yet to be passed.

It appears that the matter was heard by the engineers of the Corporation and final order is to be passed. Prior to passing the final order the private respondent is alleged to continue with the construction work.

The police was directed to ensure that no construction work continues at the subject premises. It appears that the police was not vigilant enough for which the private respondent continued with the unauthorized construction and presently, the construction has gone up to a great extent.

As the matter is still pending consideration before the Executive Engineer of the concerned Borough, accordingly, the private respondents are restrained from raising any construction of the subject property.

The Officer-in-Charge, Jorabagan Police Station is directed to ensure and keep vigil over the property so that the order passed by this Court is strictly complied with and no construction is made over the property.

The Executive Engineer is directed to pass an order within the time limit specified by this Court in WPO No.1403 of 2023 on 27th July, 2023.

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.)