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ORDER SHEET
WPO No.3256 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SONALI BANERJEE
VS.
THE STATE OF WEST BENGAL & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date: 9th January, 2023.

Mr. Partha Pratim Roy, Mr. Dyutiman Banerjee,
Advocates for the Petitioner.

Ms. Manisha Nath, Mrs. Debangana Dey Nayak,
Advocates for KMC.

The Court:- The petitioner claims to be the co-owner of the premises No.B/57/H/6 & B/57/H/7, Debendra Chandra Dey Road, Kolkata-700 015, Ward-58, Borough-VII under the jurisdiction of the Kolkata Municipal Corporation.

The grievance of the petitioner is that the private respondent who is also the co-owner of the said property, is taking steps to develop the property without taking any consent or no objection from the petitioner. No sanction has been obtained from the Corporation for making such construction.

The petitioner filed an objection before the Kolkata Municipal Corporation in November, 2022 and alleges that the same has not been taken up for consideration till date.

It appears from the cause title of the writ petition that the other co-owners of the property have not been impleaded as party respondents. Only the

developer of the property allegedly engaged by the co-owners has been impleaded as the respondent no.10.

There is, however, no proof of service of the writ petition upon the said respondent.

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

Learned advocate representing the Kolkata Municipal Corporation has obtained instruction from the Sub-Assistant Engineer(Civil)/Building Department, Borough-VII, Kolkata Municipal Corporation, Assistant Engineer(Civil)/Building Department, Borough-VII, Kolkata Municipal Corporation and the Executive Engineer(Civil)/Building Department, Borough-VII, Kolkata Municipal Corporation signed on 6th January, 2023 wherein it has been mentioned that the department inspected the subject premises and found it to be vacant land. It was noticed that brickwork below ground level has been done. Department issued stop work notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 with intimation to Tangra Police Station.

It appears from the instruction provided by the engineers of the Kolkata Municipal Corporation that indeed construction work is being made in an unauthorized manner without obtaining any permission from the Kolkata Municipal Corporation.

In view of the above, the Executive Engineer (Civil)/Building Department/Borough-VII, Kolkata Municipal Corporation is directed to take steps in accordance with law to deal with the unauthorized construction.

The aforesaid engineer shall take steps to conduct a fresh spot enquiry in presence of all the parties. Notice of spot inspection shall be served in advance upon all the parties. The spot inspection report shall be forwarded to all the concerned parties.

Thereafter, the Executive Engineer (Civil) / Building Department / Borough-VII, Kolkata Municipal Corporation shall take 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 conducting spot inspection.

Learned advocate for the petitioner is directed to forward the details of the other co-owners of the property to the Executive Engineer (Civil)/Building Department, Borough-VII, Kolkata Municipal Corporation so that requisite notice(s) may be served upon the respondents intimating the date and time of spot inspection.

The writ petition stands disposed of.

Instruction given by the engineers of the Kolkata Municipal Corporation be retained with the 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.)