

25.01.2024
Court No. 13
Item Nos. 3
pk

WPA 1924 of 2024

Birbal Kumar Ray

Vs.

The Kolkata Municipal Corporation and Ors.

Mr. Rishabh Ahmad Khan,
Md. Nazish Khan

.... For the Petitioner.

Mr. Debjit Mukherjee,
Ms. Susmita Chatterjee

.... For the KMC.

1. The petitioner is aggrieved by a notice of demolition issued under Sections 544 and 546 of the KMC Act 1980 in respect of Premises No. 49/5/H/143. Karl Marx Sarani, Kidderpore, Kolkata-23. The petitioner claims to have occupied the premises on lease and enjoyed such possession till 24th January, 2024. The land according to the petitioner is debottor estate.

2. The main argument of the petitioner is that he has not been served notice under Section 400(1) of any unauthorised construction.

3. Counsel for the KMC submits that the entire G+2 building is illegal, unauthorised and has been constructed without any lawful sanction of the Kolkata Municipal Corporation.

4. It is further submitted that notice under Section 400(1) has been addressed to Birbal Kumar Ray(Writ Petitioner) and Arvind Sharma on 06.12.2023.

Subsequent inspection report dated 25.01.2024 indicates that hearing was conducted with the petitioner under Section 400(1) of the KMC Act of 1980 pursuant to a writ petition filed by one Anand Kumar Mahato being WPA 12044 of 2022.

5. Since notice of demolition under Section 400(1) has been served to the writ petitioner no. 1, statements made across the bar in the writ petition are patently false, untrue and incorrect.

6. The petitioner had all material times was aware of the proceedings of the KMC.

7. In the above circumstances, for suppression of material facts and an attempt to mislead this Court, the writ petition is dismissed with costs assessed at Rs.35,000/- payable by the writ petitioner to the Kolkata Municipal Corporation.

8. The Kolkata Municipal Corporation shall proceed expeditiously and urgently with its proceedings for demolition of unauthorised constructions.

9. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)