

**2409
2024**

TUESDAY

Court : 08
Item : 03 (SB)
Matter : CO
Status : DISMISSED
Bench ID : 265762
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**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

CO 381 of 2024

Shahnawaz Alam

Vs.

The Kolkata Municipal Corporation & Ors.

Mr. Dinendranath Chatterjee, Advocate

Mr. Partha Sengupta, Advocate

Mr. Biswarup Sengupta, Advocate

.....for the Petitioner

1. This revisional application is directed against an order dated 26.12.2023 passed by the Municipal Building Tribunal, The Kolkata Municipal Corporation in BT Appeal No. 209 of 2023 by which the order was passed for demolition of an unauthorized structure constructed at the Fourth Floor level measuring about 2800 sq.ft..
2. The proceeding was initiated against the petitioner under Section 400 of the Kolkata Municipal Corporation Act, alleging the wrongful and/or illegal construction made upon the property in question.
3. In course of hearing, it was pointed out to the authorities as well as the Tribunal that the construction was made in terms of the plan duly sanctioned by the KMC and there is neither any deviation nor any unauthorized or illegal construction made thereupon. In course of hearing, it was found that the plan for construction of the building at the site was sanctioned for G+3 storied building but

subsequently, it was detected that another additional floor was constructed over and above the same. In course of hearing, the Counsel for the appellant also agreed that there is no sanction for the construction of an additional floor above the G+3 storied building.

4. A person cannot be permitted to make construction either *de hors* the sanctioned building plan or in deviation thereof or in clear violation of the statutory provision. Any construction made without the sanction obtained from the authority, cannot be allowed to stand and, therefore, I do not find any infirmity and/or illegality in the order by which the said unauthorized and/or illegal construction was directed to be demolished.
5. The Tribunal was conscious that there is a sanctioned building plan for G+3 storied building and, therefore, also passed an order that the same shall not be demolished, which in my view, have sufficiently taken care of the interest of the petitioner in respect of the said portion.
6. Since there is no point involved in the said revisional application warranting interference with the order impugned herein, the revisional application being **CO 381 of 2024** is **dismissed**. No order as to costs.

(Harish Tandon, J.)

