

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 7979 of 2024

**Somnath Gunin
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. Dinendranath Chatterjee.
Mr. Partha Sengupta.
Mr. Biswaroop Sengupta.
...For the Petitioner.**

**Ms. Sima Chakraborty.
Ms. Manisha Nath.
... for the KMC.**

The petitioner is aggrieved by the notice dated 29th February, 2024 issued under Sections 544 and 546 of the Kolkata Municipal Corporation Act, 1980 informing the petitioner that the men and agents of the Corporation will enter the premises no. 91, Raja Rajendralal Mitra Road, Ward No. 34, Borough-III of the Kolkata Municipal Corporation on 21st March, 2024 for demolishing the unauthorised construction of four storied RCC structure that had been constructed without any sanction from the Kolkata Municipal Corporation as per the demolition order 15th September, 2023 passed under Section 400(1) of the KMC Act, 1980.

Petitioner submits that a statutory appeal has been filed before the Tribunal on 30th November, 2023 being BT Appeal No. 216 of 2023. The next date fixed for hearing of the appeal is 28th March, 2024.

On a query from the Court as to whether there is any sanction for raising the aforesaid construction, the learned advocate for the petitioner fails to produce any sanction pursuant to which the construction has been made.

Any construction which has been made without a valid sanction is an unauthorised construction and the same is liable to be demolished forthwith. Any delay in executing the order of demolition in respect of an unauthorized construction will result in perpetuating injustice which should not be encouraged under any circumstances.

The very first thing to ascertain whether the construction is authorized or not is to verify the existence of a valid building sanctioned plan. In the instant case construction of four storied RCC structure has been made without any sanction at all. There is no sanctity of the construction that has been made. It is possible that the structure may collapse any moment causing irreparable loss of valuable life and property.

No sympathy should be shown to a builder who raises construction violating the law of the land. Showing misplaced sympathy to such dishonest and unscrupulous builder will result in sheer injustice. A litigant who approaches Court for perpetuating injustice cannot expect any relief from the Court. Entertaining the writ petition will be abuse of the process of law.

The Court is not inclined to exercise jurisdiction in the matter.

The Corporation is directed to proceed with the demolition work which is scheduled tomorrow that is 21st March, 2024 and continue the same on day-to-day basis till the entire unauthorized construction, both internal and external, is pulled own completely.

The writ petition stands dismissed.

Urgent certified copy of this order, if applied for, be supplied to the parties expeditiously, on compliance of usual legal formalities.

(Amrita Sinha, J.)