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02.04.2024
d.p.

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

W.P.A 9404 of 2024

**Smt. Sumana Datta Chatterjee
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. Biswanath Mitra,
Ms. Sujata Mitra,
Mr. Triptimoy Talukdar,
Mr. Bijayandra Mitra.
...For the Petitioner.**

**Mr. Gopal Chandra Das,
Mr. Rudranil De.
...For KMC.**

The petitioner is aggrieved by the notice issued under Sections 544 and 546 of the Kolkata Municipal Corporation Act, 1980 dated 22nd March, 2024 issued by the Executive Engineer (Building), Borough-X intimating the petitioner that the men and agents of the Corporation will enter the premises no. 48/6/1, N.S.C. Bose Road, Ward No. 97, Borough-X of the Corporation on 2nd April, 2024 for demolition of the unauthorized structure viz. the construction work on the roof as per the order passed by the Special Officer (Building), Kolkata Municipal Corporation dated 28th June, 2023 under Section 400(1) of the Kolkata Municipal Corporation Act, 1980.

It appears from the documents annexed to the writ petition that the petitioner applied for obtaining permission for making certain repairing/construction

at the subject premises on 27th February, 2023. There is nothing on record to suggest that the Corporation granted permission to the petitioner to do the work as applied for.

On a complaint filed against the construction, the Corporation initiated proceeding under Section 400(1) of the Act and an order was passed by the Special Officer (Building) on 28th June, 2023.

The order of demolition has been placed before this Court by the learned advocate appearing for the Corporation.

It appears therefrom that the petitioner was raising a construction on the roof which is a common space to all the residents. As the brick walls was erected on the roof which is a preparatory for construction of a room over the existing two storied building without any sanction plan, direction was passed for demolition of the unauthorized construction.

The total area of the unauthorized construction is 120.733 sq. mts. The infringement statement mentioned in the order of the Special Officer clearly shows that the mandatory side open spaces and the ground coverage have been infringed.

The demolition order is appealable before the appellate forum within the stipulated time period. The time period within which the appeal ought to have been filed expired long ago. As on date there is no challenge to the order of demolition that has been passed.

The Court does not find any error on the part of the Executive Engineer in proceeding with the demolition work.

In view of the above, no relief can be granted to the petitioner in the instant case.

The writ petition, accordingly, fails and is hereby dismissed.

The engineers of the Corporation are directed to proceed with the demolition work on day to day basis till the entire unauthorized construction is pulled down.

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

(Amrita Sinha, J.)