

Sl. No.42
10.12.2024
Suman
Ct. 15

WPA 14162 of 2024
With
CAN 1 of 2024

Smt. Kalpana Majumder and Ors.
Vs.
Kolkata Municipal Corporation and Ors.

Mr. Jayanta Kumar Mitra, Sr. Adv.
Mr. Souvik Nandi
Mr. Indranil Nandi
Ms. Mary Datta
Mr. Sayak Konar
..for the petitioners

Mr. Sandipan Banerjee
Ms. Poushali Banerjee
...for Kolkata Municipal Corporation

Mr. Subhajit Saha
..for Private respondent no.5

Ms. Sabnam De Bardhan
..for the State

By filing this writ petition, the petitioners seek the demolition of an unauthorized toilet located in the mandatory open space on the ground floor in front of premises No. 40, Sadananda Road, Kalighat, Kolkata – 700026.

The Corporation has filed its report today, which is quoted as follows:

“A building plan was sanctioned for a (G+IV) storied Residential Building of height 15.50M over a plot of land area 398.605 sqm and width of the abutting road 15.65M on the eastern side of the above mentioned premises vide

Building Permit No.2012080144 dated 03.12.2012 in the name of Kalpana Majumder & three others as owners.

During construction some deviations have been found and a demolition proceeding under Section 400(1) and 416 of KMC Act 1980 was initiated in respect of the said deviation vide D/Case No.032-D/Br.VIII/22-23. The deviations are mainly (a) Construction of RCC projections from first floor to fourth floor in all sides. (b) Shifting of internal walls, lift and stair etc. (c) One toilet is constructed at front open space.

All the said deviations have been regularized by order of S.O.(B) dated 12.04.2023 vide D/Case No.032-D/Br.VIII/22-23. The said order has also been approved by MIC vide Item No.M-31.37 dated 28.08.2023.

The department received a complaint letter from Mrs. Kalpana Majumder and department inspected the said premises and found that some brick walls have been erected in front portions of the toilet at ground floor encroaching the front open space for which department has issued a Stop Work Notice U/S. 401 of KMC Act 1980. As per order of higher authority of KMC, the said case file processed U/S 400(1) of KMC Act, 1980."

The report from the Corporation clearly indicates that the toilet in question was regularized by the Mayor-in-Council on August 28, 2023. The petitioners have not challenged this order of regularization in their writ petition.

Accordingly, I grant the petitioners the liberty to challenge the order of regularization in accordance with the law.

With respect to the demolition proceedings initiated by the Corporation under Section 400(1) of the Kolkata Municipal Corporation Act, 1980, I direct the Corporation to complete the proceedings within two

months from the date of this order, in accordance with the law.

Accordingly, **WPA 14162 of 2024**, along with **CAN 1 of 2024**, is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)