

S/L 3
08.07.2024
Court. No. 551
Sourav

WPA 14080 of 2023

Md. Noor Alam Mistry
Vs.
The Kolkata Municipal Corporation & Ors.

Mr. Bidhayak Lahiri
Md. Kalam
Ms. Bhaswati Lahiri

...for the petitioner.

Mr. Alok Ghosh
Mr. Subhrangsu Panda
Ms. Ina Bhattacharyya

...for KMC.

Mr. Syed Nazmul Hossain
Mr. Subhajit Chowdhury

...for the State.

Mr. Sudeep Sanyal
Mr. Sukanta Das
Mr. Chandrachur Lahiri

...for the private respondents.

1. The report dated July 4, 2024 as submitted by the Executive Engineer (C), Building Department, Br. No. XV, KMC as filed by the respondent nos. 1 to 4 is taken on record.
2. The parties are represented through their respective learned advocates.
3. Mr. Ataur Rahman, the Executive Engineer (C), Building Department, Br. No. XV, KMC is personally present in Court and his personal appearance as directed by this Court on June 13, 2024 is hereby dispensed with.
4. At the time of hearing, learned advocate for the writ petitioner submits before this Court that without making any amalgamation in respect of premises nos.

T-135/1, T-135/2, T-135/3 and T-135/7, Murray Road, Kolkata – 700 018 in Ward No. 138 of the Kolkata Municipal Corporation under P.S. Rajabagan, the private respondents are making illegal construction, for which the instant writ petition has been filed which is, however, denied by Mr. Sanyal, learned advocate who is appearing on behalf of the private respondents herein.

5. At this stage, Mr. Ghosh, learned advocate appearing on behalf of the respondent nos. 1 to 4/Kolkata Municipal Corporation and its officials draws attention of this Court to the reports dated 11.06.2024 and 04.07.2024.
6. It is submitted by Mr. Ghosh that pursuant to the queries made by this Court on May 6, 2024, the aforesaid two reports have been filed. It is further submitted by Mr. Ghosh that from the said two reports, it would reveal that no amalgamation/mutation has been done in respect of the aforesaid four premises. It is submitted further by KMC that from physical inspection, it would reveal that in premises no. T-135/2, Murray Road, there exists a two storied structure and in premises nos. T-135/3 and T-135/7, Murray Road, there exist partially demolished one storey frame structure and it is further depicted from the IB copy as sent by the Assessment and Collection Department that there exists one RTBW 1r shop, 1r shop, 4r shop in premises no. T-135/1 and in premises no. T-135/2, there exists a vacant land and tank having land area 1 cottah 8 chittak. In respect of premises no. T-135/3 in the assessment register, it has been depicted as three

storied dwelling house+shop, 1-2r shop, 2r+BP+kit, 4r+cv and 2r+cv. It is further submitted that though in the database of the KMC, there exists premises no. T-135/1, Murray Road but on physical verification, the same cannot be located.

7. Drawing attention to Clause 'D' of the report dated 04.07.2024, it is submitted further by Mr. Ghosh, learned advocate on behalf of KMC that in respect of premises nos. T-135/3 and T-135/7, Murray Road, an unauthorized construction was identified at the instance of the respondent no. 12 (Hasim Halder), respondent no. 11 (Subid Halder) and others and respondent no. 13 (Anowara Bibi) and accordingly, stop work notice under Section 401 KMC Act, 1980 has been issued upon the persons responsible and a proceeding under Section 400(8) of the KMC Act, 1980 has already been initiated and after its logical conclusion, a demolition work has been carried out on those premises for two days and after such demolition no further construction work is carried out in the said premises.
8. Considering the submissions of the learned advocates for the contending parties and also on perusal of the aforesaid two reports as submitted by the Executive Engineer (C), Building Department, Br. No. XV, KMC, this Court is satisfied that the grievance of the writ petitioner has been met substantially, though learned advocate for the writ petitioner submits that the report of the Kolkata Municipal Corporation with regard to the

non-existence of premises no. T-135/1, Murray Road, Ward No. 138. Br. No. XV is not correct.

9. Considering the prayers made by the writ petitioner in this writ petition, vis-à-vis, the reports as submitted by the KMC authorities, this Court is of the considered view that since the demolition work in the aforesaid premises has been completed substantially and since the KMC authority expresses and/or undertakes to carry out the demolition of the remaining portion of the unauthorized construction in the aforesaid premises, this Court disposes of the instant writ petition by directing the KMC authority to carry out the remaining portion of the illegal construction in respect of the aforesaid premises in terms of the order as passed in a proceeding under Section 400(8) of the KMC Act, 1980 within a period of three months from today.
10. With the aforementioned observation, the instant writ petition being **14080 of 2023** is disposed of. All interim applications are also disposed of.
11. Urgent photostat certified copy of this order, if applied for be given to the parties, upon compliance of necessary formalities.

(Partha Sarathi Sen, J.)