

03.06.2024  
Item No.15  
gd/ssd

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

WPA/15083/2024  
SANTOSH AGARWAL  
VS  
STATE OF WEST BENGAL AND ORS.

Mr. Jitesh Sah,  
Mr. Ranit Mukherjee,  
Ms. Sumana Mukherjee,  
Ms. Rinku Patel,  
Mr. Ranjeet Prasad  
..for the Petitioner.

Mr. Jayanta Samanta,  
Mr. Swapan Pal,  
Mr. Rameshwar Sinha  
..for the State.

Mr. Gopal Chandra Das,  
Mr. Atish Kumar Biswas  
..for KMC.

The petitioner complains of illegal and unauthorized construction at 7Z, Samar Sarani, PS and PO - Sinthi, Kolkata - 700050 under Ward No.2, Borough - 1 of the Kolkata Municipal Corporation.

The petitioner alleges that complaint lodged against such unauthorized construction in December, 2023 is yet to be considered and disposed of by the Corporation.

Learned advocate representing the Corporation relies upon the instruction forwarded by the engineers of the Corporation signed on 31<sup>st</sup> May, 2024 which mentions that the same is a case of

unauthorized construction in deviation from the sanctioned plan dated 4<sup>th</sup> August, 2010. The construction was inspected by the department in March, 2014 and found that the construction has been made in deviation of the sanctioned plan.

To stop progress of unauthorized construction notice under Section 401 of the KMC Act, 1980 was issued on 27<sup>th</sup> March, 2014 and the matter was processed under Section 400(1) of the KMC Act, 1980. A hearing was conducted by the Special Officer (Building) and an order was passed on 16<sup>th</sup> August, 2018 to regularize the unauthorized construction i.e. projection of RCC Slab from first to second floor, additional construction of the third floor and change of use along with internal and external alteration on all the floors upon payment of fees on 16<sup>th</sup> March, 2020. A regularized demolition sketch plan has already been issued vide Serial No.061/BLDG/1/19-20 dated 16<sup>th</sup> March, 2020.

Upon hearing the submissions made on behalf of the parties, it appears that the construction complained of by the petitioner appears to have been regularized by the Corporation upon acceptance of fees in the year 2020. The petitioner was not aware of the order of regularization. The petitioner is aggrieved by the act of the Corporation in regularizing the unauthorized construction.

It will be open for the petitioner to approach the competent forum challenging the order of regularization in accordance with law, if so advised.

The writ petition stands disposed of.

Parties to act on the basis of the server copy of this order duly downloaded from the official website of this Court.

**(AMRITA SINHA, J.)**