

06.09.2024

Sl.No. 8
Ct.No. 32
Amalranjan

ASSIGNED MATTER

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 14445 of 2023

With

CAN 1/2024

With

CAN 2/2024

Anju Rani Saha

Vs.

Kolkata Municipal Corporation and ors.

Mr. Prosenjit Mukherjee
Mr. Nirmalya Kumar Das
Mr. Jahangir Hossain

...for the petitioner

Mr. Srijon Nayak
Mr. Gopal Chandra Das
Ms. Suranjana De Sarkar

...for the KMC

Mr. Manik Das
Mr. Arindam Chatterjee
Mr. Rahul Singh

...for the added respondents

Re: CAN 1/2024

With

CAN 2/2024

1. Fresh report, filed by the Kolkata Municipal Corporation being the respondent nos. 1, 2 and 4, is taken on record.
2. Copy served to the other parties.
3. Upon perusal of the said report, it appears that the department has inspected the premises no. B/7/H/14, Raicharan Pal Lane, Ward 59, Borough VII on 09.06.2023 and found that the person responsible has

erected one storied RCC frame structure without sanction. Department has already issued Stop Work Notice U/s. 401 of K.M.C. Act, 1980 on 19.6.2023 at the above mentioned premises and the matter has also been informed to Officer-in-Charge, Topsia PS for necessary action. Since the person responsible was continuing the unauthorized construction defying Stop Work Notice U/s. 401 of KMC Act, 1980 so, round the clock police watch posting was imposed on 31.10.2023. The said matter was already processed u/s 400(1) of KMC Act, 1980. Final order has been passed by Special Officer (Building) dated 19/12/2023. After obtaining the approval of higher authority, the date of demolition was fixed on 13.05.2024. A reasonable portion of the unauthorized construction was demolished on that day. As per court order Re; MAT 959/2024 received a direction of not taking any coercive step against the property till one week after 17.06.2024. Department has inspected the premises on 03.09.2024 and found that the person responsible carried out the construction works denying Stop Work Notice and round the clock police has been

posted. Next date of demolition has been fixed on 11.09.2024.

4. The writ petitioner, by filing this writ petition, made an allegation that the private respondent no. 8 and added respondent no. 9 have constructed unauthorized illegal construction at premises no. B/7/H/14, Raicharan Pal Lane, Ward 59, Borough VII on 09.06.2023 without any sanction plan.
5. The said contention has been endorsed by the Kolkata Municipal Corporation by passing the demolition order.
6. The private respondent has already preferred an appeal under Section 400(3) of the KMC Act before the Appellate Authority i.e. the Municipal Tribunal against the said impugned demolition order passed under Section 400(1) of KMC Act (B.T.A. 83 of 2024).
7. The said proceeding is sub-judiced before the Kolkata Building Tribunal.
8. Under such circumstances, this writ petition has become infructuous since the KMC has already undertaken all steps for demolition of unauthorized construction. Now, the matter is pending before the Municipal Building Tribunal. All other averments may be

agitated before the Tribunal by the parties, if advised.

9. Kolkata Municipal Corporation is directed to take appropriate steps in accordance with law.

10. Kolkata Municipal Corporation, Building Tribunal is directed to take up the matter and dispose of the same as expeditiously as possible, without being influenced by any of the observations made by this Court hereinabove.

11. The writ petition being **WPA 14445 of 2023** is, thus, disposed of with above observations.

12. Consequently, the applications being **CAN 1/2024** and **CAN 2/2024** are also, thus, disposed of.

13. Urgent Photostat certified copy of this order, if applied for, is to be supplied to the parties taking all legal formalities.

(Ajay Kumar Gupta, J.)