

S/L 31
27.02.2024
Court No.24
SD

WPA 16461 of 2023

South City Apartment Owners' Association & Anr.
Vs.
Kolkata Municipal Corporation & Ors.

Mr. Arindam Banerjee
Mr. Bimalendu Das
Mr. Shomrik Das

...for the Petitioners.

Mr. Alope Kumar Ghosh
Mr. Atis Biswas

...for the State.

Mr. Rishabh Dutta Gupta
Mr. Ratikanto Pal

...for the Private Respondent.

Supplementary affidavit filed by the petitioners in Court today is taken on record.

The petitioners complain that the private respondent is raising unauthorized construction without any sanctioned plan leaning upon the south west side boundary wall outside tower four of the complex in question.

Objection was filed before the Kolkata Municipal Corporation but there has been no response to the same.

Learned advocate representing the private respondent submits that construction is being made in accordance with the sanctioned plan.

Learned advocate representing the Kolkata Municipal Corporation has received instruction from the engineers of the Borough which mentions that inspection revealed that the person responsible constructed two-storied structure without any sanction from the Corporation. Notice under

Section 401 of the Kolkata Municipal Corporation Act was issued on May 24, 2023 with intimation to the Jadavpur Police Station. Action under Section 400(8) of the Kolkata Municipal Corporation Act was undertaken on September 21, 2023 but as it was found that the unauthorized structure was fully occupied, accordingly, demolition could not be effected.

From the supplementary affidavit filed by the petitioners, it appears that during pendency of this writ petition a further storey has been added to the already unauthorized construction.

The engineers of the Corporation after invoking the provision of Section 400(8) of the Act ought to have taken prompt necessary steps to prevent the private respondent from carrying on any further construction and at the same time should have taken positive steps for implementation of the order of demolition passed under Section 400(8) of the Act. None of the above has been done.

On the contrary, the person responsible continued with the unauthorized construction and presently the structure is occupied. It is the duty and responsibility of the Corporation to ensure that the order of demolition is executed without any further delay.

The Officer-in-Charge, Jadavpur Police Station is directed to take necessary steps to vacate the unauthorized construction so that the Corporation can demolish the same under Section 400(8) of the Act.

The occupiers of the unauthorized construction are restrained from interfering with the men and agents of the Corporation at the time of implementing the order of demolition.

The unauthorized construction shall be brought down at the earliest but positively within a period of sixty days from the date of communication of this order.

The writ petition is disposed of.

Urgent certified photocopy of this order, if applied for, be given to the parties, upon compliance of all formalities, on priority basis.

(Amrita Sinha, J.)