

Sl. No.08.
18.11.2024
Suman
Ct. 15

WPA 18688 of 2024

Nirupam Laha
Vs.
Kolkata Municipal Corporation and Ors.

Mr. Saurabh Guha Thakurata
Ms. Nilanjana Sarkar
Mr. A. Sarkar
..for the petitioner

Mr. Alak Kumar Ghosh
Mr. Barin Banerjee
Mr. Gopal Chandra Das
..for KMC

Ms. Anjusri Mukherjee
Mr. Nikhil Kumar Gupta
..for the State

The petitioner's grievance is that he has merely replaced some damaged tiles at premises No. 23, Gariahat Road, Ward No. 90, Kolkata – 700029. However, the Kolkata Municipal Corporation has issued a notice under Section 400(1) of the Kolkata Municipal Corporation Act, 1980, directing the cessation of the "repair and renovation works."

The Corporation has submitted a report in this matter.

The relevant portion of the report is quoted below:

“(ii) Here in this case the writ petitioner without taking any permission from the owner and /or from the Corporation started constructional works regarding re-flooring, plastering, false ceiling, cutting of brick walls practically the whole constructional work is undertaken by the writ petitioner for a total change of structural stability as well as for an entire new look of the shop room without any permission from the Corporation which is a bounden duty of a person Under Rule 3(2) of the KMC Building Rule, 2009.”

Upon considering the photographs annexed to the report and considering the submissions of the petitioner, I am of the view that the repair and renovation works undertaken by the petitioner do not, in fact, affect the structural stability of the building, as suggested by the Corporation.

The petitioner is present before this Court and submits that the roof repairs of the shop room have already been completed. He further intends to install a glass door and repair some floor tiles. The petitioner undertakes not to carry out any repair or renovation work beyond that.

In my opinion, the petitioner does not require any permission to undertake such works, in light of Rule 3(2) of the Kolkata Building Rules, 2009.

I am not persuaded by the argument advanced by Mr. Ghosh, learned advocate for the Corporation, with reference to Section 390(3) of the Kolkata Municipal

Corporation Act, 1980, as that the proposed works do not constitute an alteration of the structure within the meaning of Section 390(3) of the Kolkata Municipal Corporation Act, 1980.

In view of the foregoing, the writ petition is allowed.

The petitioner is required to complete the repair works within six weeks from the date of this order.

However, should the petitioner fail to comply with the undertaking given before this Court, the Corporation shall be at liberty to take appropriate action in accordance with the law.

Accordingly, **WPA 18688 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.)