

02.09.2024
Sl. No. 140
AKG
Ct. 15

WPA 21894 of 2024
Sukumar Kundu
-vs-
Kolkata Municipal Corporation & Ors.

Mr. Dinendranath Chatterjee,
Mr. Partha Sengupta,
Mr. Biswaroop Sengupta
...for the Petitioner
Mr. Sandipan Banerjee,
Ms. Manisha Nath
...for KMC

The petitioner alleges that he sought to undertake some repair works on a building at 11/2, Beliaghata Main Road, Police Station – Beliaghata, Borough – III, Ward No. 34, Kolkata – 700085. The petitioner asserts that the Kolkata Municipal Corporation has illegally issued a stop work notice.

The learned advocate representing the Corporation, on the other hand, submits that during a routine inspection, it was found that the petitioner had raised a two storey RCC framed structure and columns above the existing two-storey building without a sanctioned plan. Accordingly, a stop work notice was issued on February 15, 2023.

The Department also prepared proposal under Section 401 of the Kolkata Municipal Corporation Act, 1980 along with a demolition sketch and an infringement statement.

Considering the gravity of the situation concerning public safety, the Corporation

recommended the immediate demolition of the entire unauthorised structure forthwith by passing an order under Section 400 (8) of the Kolkata Municipal Corporation Act, 1980.

I find that the resolution adopted by the Mayor-in-Council dated March 17, 2023, is a stereo type resolution. Given that the stop work notice was issued as long as back on February 15, 2023, the Corporation could have proceeded with regular demolition proceedings under Section 401 of the Kolkata Municipal Corporation Act, 1980. Taking recourse to Section 400 (8) of the Kolkata Municipal Corporation Act, 1980 was uncalled for in this case.

Accordingly, the proceedings under Section 400 (8) of the Kolkata Municipal Corporation Act, 1980 are set aside. The Corporation shall provide an opportunity of hearing to all concerned. After hearing all concerned, the Corporation shall pass an order regarding the demolition in accordance with law.

WPA 21894 of 2024 is disposed of.

Urgent certified *website* copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)