

31.01.2024
BP/Suman
Court No. 13
Sl. 108

W.P.A. 24239 of 2023

Sushila Devi Roy
Vs.
The State of West Bengal & Ors.

Mr. Rachit Laohmani
Mr. Dip Jyoti Chakraborty
Mr. Tarique Masood
..for the petitioner

Mr. Atis Kumar Biswas
Mr. Sundar Gopal Bhattacharyya
..for KMC

Mr. Priyankar Saha
Mr. Rudrajit Sarkar
..for the State

1. The petitioner assails a proposed demolition order of unauthorized construction on its premises. The petitioner had a sanctioned plan of Ground plus two storeys on its premises whereas he has constructed two additional storeys. It also appears from the record that the petitioner has not left two meters space in the front and four meters space at the back. It also appears that the FAR being 1.275 has crossed to 3.288. Several other improprieties, illegalities and deviations from the sanction are available.
2. Learned counsel for the petitioner submits that his client was not heard. Pursuant to the order of demolition being issued it is also submitted that the hearing was conducted on a day when his writ

petition was being heard before a Coordinate Bench on 28th April, 2023.

3. It appears from the order dated 28th April, 2023 passed in WPO 941 of 2023 that proceedings were already underway before the Kolkata Municipal Corporation under Section 400(1) of the Act, 1980.
4. The petitioner's counsel would argue that on that day the petitioner attended the Kolkata Municipal Corporation to submit a regularization application of the unauthorised construction.
5. There are disputed question of fact which this Court cannot enter into. Given the nature of deviation and illegality committed by the petitioner, this court is unable to accept that such a serious violation of the sanctioned plan can at all be regularized by the Kolkata Municipal Corporation.
6. Be that as it may, the petitioner will appeal against the order of demolition by tomorrow evening at 4.00 clock with a copy of this order. The Appellate Authority shall call for the records and consider the appeal. Hearing of the petitioner's application shall be completed by day after tomorrow.
7. The Kolkata Municipal Corporation shall, thereafter, proceed in accordance with law.
8. Accordingly, WPA 24239 of 2023 is disposed of.

(Rajasekhar Mantha, J.)