

OD-7

ORDER SHEET
WPO No.213 of 2024
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

INDRANI CHAKRABORTY

-Versus-

THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date : 8th April, 2024.

Appearance:

Mr. Hara Ram Singh Adv.
...for Petitioner.

Mr. Gopal Chandra Das, Adv.
Ms. Manisha Nath, Adv.
...for KMC

Ms. Joyee Maiti, Adv.
...for State.

The Court:- The petitioner complains of the act of the Corporation in taking steps for demolishing a portion of the construction at premises no.149, Nelinagar Road Ward No.105, Borough- XII of the Kolkata Municipal Corporation.

The petitioner claims to be a co-owner of the subject premises and submits that without giving any opportunity of hearing, Corporation has taken steps for demolition of certain construction at the subject premises. The petitioner submits that the construction in question was raised by the developer being the respondent no.5 herein.

The petitioner feigns ignorance as to whether the construction in question has been made in accordance with sanctioned plan or not.

None represents the private respondent.

Affidavit of service is already on record.

Learned advocate representing the Corporation relies upon the instruction forwarded by the Executive Engineer [Civil]/Borough- XII signed on 01.04.2024 which mentions that on receiving complaint of unauthorized construction, the building department took action under Section 401 of the Kolkata Municipal Corporation Act, 1980. Provision of Section 400[8] of the Act was invoked and approved by MIC and the demolition work has been executed on 22.08.2023, 23.11.2023 & 24.11.2023. Approximately 1300 sq. ft along with the shuttering work in the third floor of the subject premises had already been demolished. Rest portion of unauthorized construction will be demolished accordingly.

From the instruction forwarded by the Corporation it appears that emergent provision was invoked to demolish the unauthorized construction. The said provision does not require granting prior opportunity of hearing to the person responsible.

In view of the above, the Court is not inclined to interfere in the instant writ petition.

Writ petition fails and is hereby dismissed.

Report filed by Garfa Police Station be retained with the record.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(AMRITA SINHA, J.)