

OD-3

ORDER SHEET

WPO No.466 of 2024
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

MD. ABID
VS
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 24th May, 2024.

Appearance:
Mr. Tarique Quasimuddin, Adv.
Mrs. Zainab Tahur, Adv.
Ms. Hera Madni, Adv.
... for the Petitioner.

Mr. Swapan Kr. Debnath, Adv.
...for KMC.

Ms. Koyeli Bhattacharya, Adv.
...for Respondent no.5.

Mrs. Sipra Mazumdar, Adv.
Mrs. Somashree Dey, Adv.
...for the State.

The Court:- The petitioner complains of illegal and unauthorized construction of the third and fourth floors of premises no. P-34, Narkeldanga Main Road, Ward No.29, Borough-III of the Kolkata Municipal Corporation. Objection lodged against such unauthorized construction is alleged to be kept pending.

Learned advocate representing the private respondent denies the allegation of the petitioner. It has been submitted that the construction has been made in accordance with the plan sanctioned.

Learned advocate representing the private respondent submits that a similar complaint was lodged before the Corporation and a writ petition was filed alleging unauthorized construction being WPA No.11463 of 2019 [Md. Aiyan Vs. The Kolkata Municipal Corporation & Ors]. The Court vide order dated 12th July, 2022 directed the Corporation to look into the matter.

The Executive Engineer [Civil]/ Building Department, Borough-III passed an order on 9th January, 2023 by concluding that the unauthorized 4th floor over the four storied existing building be demolished.

Learned advocate submits that the order of the Executive Engineer is under challenge before the Municipal Building Tribunal being B. T. Appeal No.71 of 2023.

Learned advocate representing the Corporation is yet to receive any instruction in the matter.

As it appears that the issue was already considered by the Executive Engineer in compliance of the direction passed by this Court and an order of demolition has already been passed, accordingly, it will be open for the petitioner to approach the appellate forum in the pending appeal for relief.

The writ petition stands disposed of.

Affidavit of service filed in Court today is taken on record.

Report filed by the Officer-in-Charge, Narkeldanga Police Station signed on 22.05.2024 be retained with the records.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all legal formalities.

(AMRITA SINHA, J.)