

OD-2

CC/57/2020
WITH
WPO/206/2019
IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION(CONTEMPT)
ORIGINAL SIDE

SHAHID HUSSAIN
-VS-
BINOD KUMAR COMMISSIONER KMC

PRESENT:
THE HON'BLE JUSTICE SAUGATA BHATTACHARYYA
DATE: MAY 15, 2024.

Mr. D. Trivedi, Adv.; Mr. B.K. Singh, Adv.; Mr. B. Pal, Adv., for petitioner.
Mr. A.K. Ghosh, Adv.; Ms. M. Nath, Adv., for KMC.
Mr. A. Dey, Adv., for contemner.

The Court: The contempt application is heard at length in presence of the learned Advocates representing the applicant and the alleged contemner.

Affidavit-in-opposition has been used on behalf of the KMC in terms of the previous order dated March 20, 2024 and the same has been filed today in Court and taken on record.

The contempt application was filed on the allegation of violation of the order dated August 14, 2019 passed by a co-ordinate Bench in the connected writ petition. In the said order dated August 14, 2019, there was a direction upon the KMC to initiate appropriate proceedings in accordance with law for demolition of the unauthorised construction of two additional floors beyond the sanctioned plan in connection with the premises in question immediately but

within a period of three months. The contempt application was filed on the premise that direction as contained in the order dated August 14, 2019 was not truly carried out.

However, on perusal of the affidavit-in-opposition used on behalf of KMC, it appears that the order which was passed by the concerned authority of KMC dated August 9, 2019 was put under challenge by instituting another writ petition being WPO/532/2019 (Titan Enclave Pvt. Ltd. & Anr. –vs- Kolkata Municipal Corporation & Ors.) and the same was disposed of by another co-ordinate Bench by order dated January 9, 2020. Relevant portion of the order dated January 9, 2020 is quoted below:

“Court is unable to accept submission made on behalf of the Corporation. The recommendation and resolution appears to have happened on 8th/9th August, 2019. Direction made in the said order, quoted above, cannot be seen as in context of immediate action to be taken thereafter. Recommendation and resolution for immediate action already happened before passing of the order. If the Corporation did not take co-ordinate Bench into confidence, the omission has visited it now. Perusal of the direction reproduced above will show that it was initiation of appropriate proceeding without any further delay but positively within three months from date. This would exclude the Corporation having already had restored to exercise its power under sub-section(8) of section 400.”

In view of the observations contained in the order dated January 9, 2020, the grievance as expressed on behalf of the applicant in presenting this contempt application cannot be delved into. Accordingly, the contempt application is disposed of.

However, this shall not preclude the applicant to take steps in accordance with law, if so advised.

(SAUGATA BHATTACHARYYA, J.)

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