

ORDER SHEET

WPO/645/2024
IA NO. GA/1/2024

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

MRINAL KANTI BHATTACHARYA
Vs
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE KAUSIK CHANDA
Date : 24th September, 2024.

Appearance:

Mr. Raghunath Chakraborty, Adv.
Mr. Supratick Shyamal, Adv.
Ms. Sonali Sengupta, Adv.
Mr. Shiv Shankar Sharma, Adv.
...for the petitioner

Mr. Biswajit Mukherjee, Adv.
Ms. Susmita Chatterjee, Adv.
...for the KMC

Mr. Debangshu Dinda, Adv.
...for the State

Mr. Arkaprava Sen, Adv.
Mr. Sayantan Kar, Adv.
...for respondent no.7

Mr. Tapas Kumar Dey, Adv.
Mr. Nirupam Sarkar, Adv.
...for respondent no.8

The Court: The petitioner alleges unauthorised construction by respondent no.8 at premises no. 16/3B, Dixon Lane, Ward No. 50, Borough – V under Kolkata Municipal Corporation.

The confusion that cropped up in the mind of the Court as recorded in the order dated September 3, 2024 has been clarified by the Corporation by filing a report today.

The report of the Corporation suggests that a plan was sanctioned under Rule 3(2)(e) of Kolkata Municipal Corporation Building Rule, 2009 and under Section 410 of the Kolkata Municipal Corporation Act, 1980 in respect of the aforesaid premises. During the construction work, the respondent no.8 deviated from the sanctioned plan and raised some unauthorised construction. The petitioner thereafter filed WPO/185/2024 before this Court alleging unauthorised construction by respondent no.8, which was disposed of by a Co-ordinate Bench of this Court by an order dated 8th March, 2024 with a direction upon the Director General (Building) to pass necessary order in accordance with law.

In compliance with the said order, the Director General (Building) passed a demolition order on June 15, 2024.

In compliance with the said order dated June 15, 2024, the respondent no.8 demolished the deviated portion. Thereafter, again, respondent no.8 undertook some unauthorised construction beyond the sanctioned plan which prompted the Kolkata Municipal Corporation to issue a notice under

Section 401 of the Kolkata Municipal Corporation Act, 1980 upon the respondent no.8.

From the submissions made by the Corporation today, it further appears that for violation of the said notice under Section 401, the Corporation has also lodged an FIR against the respondent no.8.

In view of the aforesaid developments, no further order needs to be passed in this writ petition.

It is clarified that the Corporation will be at liberty to proceed in accordance with law for demolition of the deviated part as detected by it giving due opportunity of hearing to respondent no.8.

Learned advocate appearing for respondent no.7 submits that respondent no.8 undertook the construction on the basis of a forged power of attorney purportedly executed by respondent no.7.

There is no scope to adjudicate such a dispute in this writ petition. The parties have informed this Court that already a civil suit is pending between the parties regarding this issue.

Accordingly, WPO/645/2024 along with GA/1/2024 for addition of parties is disposed of.

(KAUSIK CHANDA, J.)