

ORDER SHEET

WPO/1163/2024

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SALIL KUMAR DAS AND ORS.
Vs
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:
The Hon'ble JUSTICE KAUSIK CHANDA
Date : 11th December, 2024.

Appearance:
Mr. Kasinath De, Adv.
Mr. Sandip Kumar De, Adv.
Mr. Abhijit Sarkar, Adv.
...for the petitioners

Mr. Vimal Kumar Shahi, Adv.
Ms. Gulnaz Quraishi, Adv.
...for KMC

The Court: The petitioners challenge a notice dated November 21, 2024, issued by the Kolkata Municipal Corporation under Section 401 of the Kolkata Municipal Act, 1980.

The petitioners contend that they obtained a sanctioned plan for the construction of a G+IV storied building at premises no. 52A, Mahendra Sarkar Street, Ward No. 50, Kolkata – 700 012. However, when they sought to demolish the existing structure, the Corporation suddenly and arbitrarily issued a demolition notice.

Learned counsel appearing for the Corporation has filed a report to justify the impugned notice. The relevant portion of the report is quoted below:

“A plan was sanctioned vide number 2024050013 dt.01/10/2024 for a G+IV storied Residential building U/R 142 of KMC Building Rule 2009. After obtaining Sanction Plan the applicant started demolition work. This department also received a complaint letter from Mr. Syantak Das dt – 13/11/24. As per his complain a dispute arouse regarding tenants. So, D.G(B) ordered to stop all the work until the dispute is solved.

Above mentioned site was inspected by this department & found the applicant started demolition of existing structure. But it was observed from office record that the applicant did not submit any intimation letter regarding demolition of existing structure under the supervision of Empanelled structural engineer.

which violated the rule 20 of KMC Building Rule 2009. Moreover the applicant did not cover or wrapped the site properly which caused environmental pollution & also did not put up any display board that bearing description of work in detail.

In the above circumstances this department was compelled to issue stop work notice U/S 401 of KMC Act 1980 to the applicant on 21/11/2024 & subsequently police intimation was sent to the local police station (Muchipara) on same date.”

This Court finds the action of the Corporation to be unacceptable. Given that the Corporation had granted a sanctioned plan for the construction of the building upon the payment of the requisite fees, it is surprising that a stop-work notice was issued merely on the basis of a third-party complaint.

Learned counsel for the Corporation submits that the notice was issued after the Corporation had already issued a stop-work notice.

With regard to the notice under Rule 20 of the Kolkata Municipal Corporation Building Rules 2009, I find that there has been substantial compliance, as evidenced by the notice appearing at page 39 of the writ petition. However, there is no reason to restrain the petitioners from proceeding with the construction work at this juncture in accordance with the sanctioned plan granted by the Corporation when the Corporation, admittedly, has been notified regarding the Commencement of the construction work.

In light of the foregoing, the notice under Section 401 of the Kolkata Municipal Corporation Act, 1980, appearing at page 37 of the writ petition, is hereby set aside.

Accordingly, WPO No. 1163 of 2024 is disposed of.

(KAUSIK CHANDA, J.)

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