

OD-3

WPO/1874/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

PAMMI SINGH
VS
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date: 4th January, 2024.

Appearance:
Mr. Arindam Banerjee, Adv.
Ms. Sinthia Bala, Adv.
...for petitioner.

Mr. Nilanjan Chatterjee, Adv.
Mr. Atis Kumar Biswas, Adv.
...for KMC.

Mr. Gopal Chandra Das, Adv.
Mr. Rudranil De, Adv.
Mr. Shubhranil Ghosh, Adv.
Ms. Ananya Das, Adv.
..for Respondent No.9.

Ms. Papiyan Banerjee, Adv.
...for State.

The Court:- The petitioner and the private respondent no.9 are adjacent structure owners. The structures are adjoining each other.

Grievance of the petitioner is that the private respondents have demolished the existing structure standing at 99, Durga Charan Mitra Street, Ward No.18, Borough-II of the Kolkata Municipal Corporation and has raised new construction thereon without leaving the mandatory side open space. Additional floor has been constructed without obtaining any sanction.

Complaint lodged against such unauthorized construction has not been disposed of till date.

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

the plan sanctioned by the Corporation. Allegation of raising additional floor has been denied.

Learned advocate representing the Corporation produces instruction forwarded by the engineer of the concerned Borough signed on 18.12.2023. The same mentions that unauthorized construction, in the form of deviation from the approved reconstruction of roof plan, has been detected. During inspection it was found that the person responsible has constructed RCC slab at the third floor covering the open terrace of the four storied building. To stop further progress of unauthorized work, notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 has been served upon the person responsible on 18.12.2023 with intimation to the Burtolla Police Station.

It appears from the submissions made on behalf of the parties and upon perusal of the instruction forwarded by the engineer of the Corporation that unauthorized construction has indeed been detected.

In view of the above, the Executive Engineer, Building Department, Borough-II of Kolkata Municipal Corporation is directed to take steps to deal with the unauthorized construction in accordance with law at the earliest but positively within a period of twelve weeks from the date of communication of this order.

As stop work notice has already been issued by the Corporation, the Officer-in-Charge, Burtolla Police Station is directed to keep strict vigil over the property to ensure that construction in any manner whatsoever is not carried out at the subject premises till the matter is finally decided by the Kolkata Municipal Corporation.

The petitioner alleges that the private respondent is making new construction in the guise of making reconstruction relying upon the reconstruction plan. The petitioner submits the same is impermissible in law.

It will be open for the petitioner to raise all issues before the competent authority of the Corporation at the time of hearing.

Writ petition stands disposed of.

Instruction forwarded by the Officer-in-Charge, Burtolla Police Station 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.)

nm.