

OD-6

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/1876/2023

SYED SHAHNAWAZ HUSSAIN
VS
KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:
THE HON'BLE JUSTICE AMRITA SINHA
Date : 2ND JANUARY, 2024.

Appearance :
Md. Siraj Munir, Adv.
...for petitioner.

Mr. Gurudas Mitra, Adv.
Ms. Manisha Nath, Adv.
...for KMC.

The Court :- The petitioner filed the present writ petition on 18.12.2023 alleging illegal and unauthorised construction at premises no.31B, Old Ballygunge 1st Lane, Ward 65, Borough VII of the Kolkata Municipal Corporation.

Today, when the matter is taken up for consideration by the Court, learned advocate for the petitioner produces a written instruction given by the petitioner expressing his intention to withdraw the writ petition and not to proceed with the same any further.

Learned advocate for the Corporation has obtained instruction and submits that it is a matter of unauthorised construction and notice under Section 400[8] of the Kolkata Municipal Corporation Act, 1980 was issued in the year 2019. Demolition programme was fixed on 17.09.2019 and 26.11.2019 and a portion of the unauthorised construction was demolished. The department again inspected the premises on 30.12.2023 and found that

the person responsible reconstructed the demolished portion and the reconstructed portion is fully occupied.

The conduct of the petitioner in filing the writ petition on 18.12.2023 and thereafter immediately expressing his intention not to proceed with the same any further raises serious doubt in the mind of the Court with regard to the bona fide intention of the petitioner in filing and thereafter withdrawing the writ petition. It appears from the instruction forwarded by the engineers of the Corporation that after service of the copy of the writ petition spot inspection was conducted and unauthorised construction detected.

As the petitioner himself has expressed his intention not to proceed with the writ petition, the same is accordingly dismissed as 'not pressed'.

Dismissal of the writ petition will, however, not stand in the way of the Corporation to take steps in accordance with law in respect of any structure which has been found to be constructed in any unauthorised manner at the subject premises.

The Deputy Commissioner of Police, South-East Division through the Officer-in-Charge of Karaya Police Station is directed to render all necessary help, assistance and co-operation to the men and agents of the Corporation for the purpose of vacating the unauthorised structure at the time of demolition of the same.

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

(AMRITA SINHA, J.)