

OD-7

ORDER SHEET

WPO No.1883 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SURESH KUMAR PASARI
VERSUS
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 3rd January, 2024.

Appearance:
Mr. S. Bhattacharjee, Adv.
Mr. Amal Kr. Saha, Adv.
Mr. Iresh Paul, Adv.
...for petitioner.

Mr. Mihir Kundu, Adv.
Mrs. Suranjana De Sarkar, Adv.
...for KMC.

Mr. Mainak Bose, Adv.
Mr. Lokesh Sharma, Adv.
Mr. D. Sharma, Adv.
...for respondent nos.5 & 6.

The Court:- The petitioner alleges illegal and unauthorized construction at the premises no.16 & 16/1, Sri Hariram Goenka Street, Kolkata-700007 under Ward no.42, Borough - V of the Kolkata Municipal Corporation.

Allegation is that the complaint lodged against such unauthorized construction has not been taken up for consideration till date.

Learned advocate appearing for the private respondents denies the allegation of unauthorized construction. It has been submitted that there were certain deviations at the time of making construction but the same has been removed as per direction passed by the competent authority of the Corporation.

Learned advocate representing the Corporation relies upon the report filed by two engineers of the said Borough signed on 21st December, 2023. The report mentions that on receiving a telephonic complaint, department inspected the captioned premises and found that the person responsible constructed several columns, changed the internal and external walls, constructed R.C.C.

roof, beam and brick work covering up the open terrace at the fourth floor and some columns over fourth floor in deviation from the sanctioned plan.

Department issued stop work notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 on 3rd November, 2021 with intimation to the local Posta police station. Subsequently, a proceeding under Section 400 (1) of the Kolkata Municipal Corporation Act, 1980 was initiated. Hearing was conducted by the Special Officer [Building] and an order was passed to demolish R.C.C. columns at roof of the fourth floor. All other structures were allowed to be retained. Demolition sketch has been sent to the higher authority for approval.

Upon hearing the submissions made on behalf of the parties and upon perusal of the report filed by the engineers of the Corporation, it appears that indeed there were deviations at the time of making construction. The matter was heard by the Special Officer [Building] and an order has been passed. The said order along with the demolition sketch file has been sent to the higher authority for approval. The report does not mention as to whether the order of the Special Officer [Building] has been approved or not.

The concerned authority of the Kolkata Municipal Corporation is directed to take steps in accordance with law to deal with the unauthorized construction and to conclude the proceeding including obtaining the order of approval from the competent authority at the earliest, but positively within a period of twelve weeks from the date of communication of this order.

Writ petition stands dispose of.

Affidavit of service filed in Court today is taken on record.

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

(AMRITA SINHA, J.)