

04.04.2025
Sl. No.7
akd

W. P. A. 2983 of 2025

[Suman Tewari -Vs- The Kolkata Municipal Corporation & Ors.]

Mr. Lutful Haque
Ms. Taharima Khatun
... .. for the petitioner

Mr. Gopal Chandra Das
Ms. Ananya Das
... .. for the KMC

1. The petitioner has preferred the present writ petition seeking to assail a notice dated 13.04.2023 issued by the Kolkata Municipal Corporation (KMC), whereby the petitioner was summoned in relation to an alleged unauthorized construction.

2. At the very outset, it is brought to the notice of the Court that the petitioner has approached this Court by suppressing material facts. He has merely annexed a copy of the aforementioned notice, while deliberately omitting to disclose that pursuant to the said notice a hearing was conducted on 18.04.2023, a demolition order has already been passed against the impugned unauthorized construction.

3. Learned Advocate for respondent-KMC has further drawn attention of this court to an order passed by the Hon'ble Division Bench in WPO (P) 1 of 2024 (*Sk. Mahbub Hossain vs. The State of West Bengal & Ors.*) wherein the court vide order dated 03.01.2025 directed both electricity and water connections are to be disconnected, and the unauthorized construction be demolished, considering the subject property is classified as "enemy property", with the Government of India being its lawful custodian.

4. Petitioner in the present writ petition is only assailing notice dated 13.04.2023 which, according to this court, has no relevance since in that notice he has only been summoned to appear before the Kolkata Municipal Corporation authorities in order to defend his unauthorized construction. He has not challenged the final demolition order or any other substantial decision that affects his civil or constitutional rights.

5. Accordingly, this court is not inclined to interfere with the same. This court is of the opinion that mere issuance of a notice by the Kolkata Municipal Corporation authorities requiring appearance or explanation to defend his unauthorized construction, does not, per-se, infringe upon any enforceable right and hence, does not warrant interference under article 226 of the Constitution of India. This Court finds no merit in the contention that the same notice dated 13.04.2023, constitutes an actionable cause.

6. In view of the same, the present writ petition is dismissed.

7. Since no affidavit have been filed by the respondent, the allegations made in the writ petition shall not be deemed to have been admitted.

8. There shall be no order as to costs.

9. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Gaurang Kanth, J.)