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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/380/2025
AVA RANI DUTTA
VS
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE
HON'BLE JUSTICE GAURANG KANTH
Date: 7TH AUGUST, 2025.

Appearance :
Mr. Sounak Bhattacharya, Adv.
Mr. Sounak Mandal, Adv.
Mr. Abhirup Halder, Adv.
...for petitioner
Mr. Gopal Chandra Das, Adv.
Ms. Ananya Das, Adv.
...for KMC

The Court: - The petitioner has preferred the present writ petition, being aggrieved by the inaction on the part of the respondent Corporation in not taking any action against the alleged unauthorised construction in the form of additional floor constructed at premises No. 5, Srimanta Dey Lane, P.S. Bowbazar, Kolkata 700012 at the instance of the private respondent.

The petitioner claims to be the owner of premises No. 5/1, Srimanta Dey Lane, P.S. Bowbazar, Kolkata, by dint of a registered deed of sale dated 16th June, 1980. The private respondent purchased the adjacent premises in question and has started to raise unauthorised construction. The petitioner raised complaints before

the respondent municipal authorities regarding the unauthorised construction carried on by the private respondent. Upon receipt of the complaints, the respondent municipal authorities had issued a notice under Section 400(1) of the Kolkata Municipal Corporation Act, 1980 on 22.12.2022 against the private respondent. Thereafter, a hearing was conducted on 05.01.2023 by the respondent municipal authorities and, accordingly, the Special Officer Building by an order dated 31.01.2023 was pleased to observe that:

“..... As stated by P.R. that the building is more than 150 years old and very dilapidated, some photographs are submitted. Reconstruction proposal has been sanctioned U/R 3(2) & 410.

Some R.C.C. columns are provided for stability of structure. Area of unauthorised construction is noted as 6.65 sqm. As stated by complainant the existing asb-shed is replaced by R.C.C. slab as front portion of the structure.

I do not found justified reason to demolition the small existing building where the construction works has been taken up to secure the old dilapidated structure.

I am inclined to pass order to retain the structure including replacement at asbestos shed to R.C.C. slab on payment of fees U/S 400(1) to be paid within 30 days for the date of communication of order failing which action will be taken by department.

D/sketch will be part and parcel of order.

Any person aggrieved by this order u/s 400 (1) may be appeal against this order to Municipal Building Tribunal within stipulated time in accordance with the provision of KMC act 1980”.

All of a sudden on 12th March, 2025 the private respondent again started to raise illegal and unauthorised construction of the second floor over and above the Ist Floor of the aforesaid premises.

As such due to the said construction the free air and light to the premises of the petitioner is getting completely blocked.

The petitioner had made several representations, including the one dated 28.04.2024, before the respondent authority to stop further illegal and unauthorised construction and to demolish the same. However, despite receipt of those aforementioned representations the respondent authority failed and neglected to take any steps in this regard.

Learned Counsel for the respondent states that the authorities are ready and willing to consider the petitioner's representation dated 28th April, 2025.

Learned Counsel for the petitioner states that the petitioner shall be satisfied if the same is decided within a time bound manner.

In view of the submissions made by both the parties, this writ petition is disposed of by directing respondent No. 4 to decide the petitioner's representation dated 28th April, 2025 within a period of four weeks from the date of communication of server copy of this order, strictly in accordance with law after affording an opportunity of hearing to the petitioner and dispose of the same by way of a speaking order.

With the above direction the present writ petition is disposed of.

Affidavits have not been exchanged.

As no affidavit in opposition has been called upon to be filed the allegations deemed to have been not admitted by the respondents.

(GAURANG KANTH, J.)

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