

25.06.2021
sdas
Ct. No. 15
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W.P.A 10525 of 2021

Smt. Ranu Pal & Ors.
Vs.
Kolkata Municipal Corporation & Ors.
(Via Video Conference)

Mr. Arnab Roy
..... for the petitioners

Md. Galib
Mr. Somraj Dhar
..... for the State

Mr. Ranajit Chatterjee
Mr. Subhrangsu Panda
.... for the K.M.C.

Mr. Kumarjyoti Tewari
..... for the private respondents

Pursuant to the order passed by me, Kolkata Municipal Corporation (KMC) has done a commendable job. Reports, one by Director General of Building and one by Executive Engineer (C)/Bldg./Br-III and Deputy Chief Engineer (B)/North/K.M.C. have been filed.

The report of the Director General of Building dated 24.06.2021 is as follows :

“Pursuant to the order passed by the Hon’ble Justice Abhijit Gangopadhyay dated 24/06/2021, where in his lordship was pleased to direct D.G. (Building) to cause an inspection

of the premises by today and file a report before the Hon'ble High Court on 25/06/2021. Considering such urgency, officials of the Building Department have inspected the premise today, ie, 24/06/2021 at 2.00p.m. It is understood that a Tin Shed has been erected at 3rd floor in addition to unauthorised construction at 2nd floor.

It is pertinent to mention that as per order of Hon'ble Justice Debansu Basak dated 03/08/2018 in respect to W.P. No. 11346(W) of 2018, unauthorised construction at the captioned premises was demolished u/s. 400(8) of KMC Act 1980.

It is further submitted that the person responsible has made unauthorised construction at 2nd floor and Tin Shed at 3rd floor in deviation from sanction plan vide no B/30/III/2017-18 dated 20/03/2018. In this regard stop work notice U/S 401 of KMC Act was issued on 24/03/2021 followed by police intimation on 24/03/2021 to Maniktala Police Station. Department also issued Round-O-Clock Police posting on 22/04/2021 to stop further construction. In this regard demolition processing has been initiated u/s 400(1) of KMC Act 1980.

In this regard report of Deputy Chief Engineer dated 24/06/2021 is enclosed.”

The report of the Executive Engineer (C)/Bldg./Br-III and Deputy Chief Engineer (B)/North/K.M.C. dated 24/06/2021 is reproduced which is as follows :

“Pursuant to the order passed by the Hon'ble Justice Abhijit Gangopadhyay dated 24/06/2021, where in his lordship was pleased to direct D.G. (Building) to cause an inspection of the premises by today. Such inspection has been carried out by the officials of the Building Department today on 24/06/2021 at 2.00 p.m. From inspection it is observed that a temporary Tin Shed has been erected at 3rd floor in addition to unauthorised construction at 2nd floor.

It is further submitted that from departmental records it has been observed that the person responsible has made unauthorised construction at 2nd floor in deviation from sanction plan vide no. B/30/III/2017-18 dated 20/03/2018. In this regard stop work notice was issued on 24/03/2021 followed by police intimation on 24/03/2021 to Maniktala Police Station. Department also issued Round-O-Clock Police posting on 22/04/2021 to stop further construction. In this regard demolition processing has been initiated u/s 400(1) of KMC Act 1980.

It is pertinent to mention that as per order of Hon'ble Justice Debansu Basak dated 03/08/2018 in respect to W.P. No. 11346 (W) of 2018, unauthorised construction at the captioned premises was demolished u/s 400(8) of KMC Act 1980."

From those reports and after hearing the submission made by Mr. Subhrangsu Panda, learned Advocate appearing for KMC, I am satisfied that there has been reconstruction of the portion which was demolished by KMC. This reconstruction has been done by the private respondents. It has also been submitted before me by KMC that in the said building there are other parts which were also illegally constructed.

I direct the Director General of Building of KMC to demolish forthwith the reconstructed portion which was demolished by an order passed by this Court and the tin shed thereupon which is also illegal. I further direct the said Director General of Building to initiate demolition process of the illegally

constructed other part of the said building immediately.

It appears that the private respondents have played in an oversmart manner by reconstructing the demolished portion and by putting thereupon another shed to cover the illegal act. The private respondents have little respect for the constitutional Court of the country as an order was passed earlier by this Court in his presence on 3rd August, 2018.

This Court feels that a strong message should be sent to such persons who have little respect for the Court's order and also little respect for the authorities who had demolished the building as the demolished portion has been again reconstructed.

I direct the Municipal Commissioner to withdraw the building plan and it shall not be re-issued to the private respondents without the leave of this Court. The private respondents are permanently restrained from making any construction in the said building of whatever nature be it, minor or major. Cost of Rs.5,00,000/- is also imposed upon the private respondents for showing disregard to the Court's earlier order or to the authority's action and for oversmart steps taken.

The local police station being the Maniktala Police Station i.e. respondent no. 7 herein, is directed to extend all help to the KMC officers and other

persons if engaged by KMC who will take up the demolition of the illegal parts of the said building. The cost is to be paid to the High Court Legal Services Authority within a period of two weeks from date.

Learned Registrar General is directed to file a report before the Court having jurisdiction as to the payment of cost and if the cost is not paid, appropriate order may be passed against the private respondents for releasing the cost.

Except for the payment of cost the matter is disposed of.

Learned Advocate for KMC prays for an order for realizing the cost for demolishing the illegal parts of the building. Such order of realizing the cost is passed and KMC will realize full cost for incurring expenses for demolition of the illegal parts of the building.

The reports placed before the Court today be kept on record.

(Abhijit Gangopadhyay, J.)