

OD-2

ORDER SHEET  
WPO No.274 of 2023  
IN THE HIGH COURT AT CALCUTTA  
Constitutional Writ Jurisdiction  
ORIGINAL SIDE

BISWAJIT GOSWAMI  
VS.  
KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:  
The Hon'ble JUSTICE AMRITA SINHA  
Date: 9<sup>th</sup> February, 2023.

Mr. Tapas Dutta, Adv. for Petitioner.

Mr. Alak Kr. Ghosh, Mr. Gopal Chandra Das, Advocates for KMC.

Mr. Sidharth Sharma, Mr. Rishov Dutt,  
Mr. Rohit Bhattacharjee, Advocates for the Respondent No.6.

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

The petitioner complains of certain unauthorized construction carried out in the first floor of the premises no. 2, Hare Street, Ward No.45, Borough-V under the jurisdiction of Kolkata Municipal Corporation.

The petitioner has averred in the writ petition that the person responsible for making construction, that is respondent no.6, lifted few hundred tons of bricks, sand, cement, iron rod in the first floor for construction work. The building is an old one and may collapse on account of such heavy weight being put on.

The aforesaid contention of the petitioner is categorically denied by the learned advocate representing the respondent no.6. It has been submitted that the construction is being made by use of hollow bricks which are lighter in weight compared to the regular ones.

Learned advocate representing the Kolkata Municipal Corporation submits that a demolition proceeding is already pending in respect of the said property and the

petitioner can always approach the Special Officer [Building] for dealing with any unauthorized construction carried at the subject premises.

Learned advocate for the petitioner specifically contends that the demolition case which is pending is not in respect of the first floor of the property but in respect of the other floors. It has been contended that no demolition proceeding is pending in respect of the first floor.

It appears from records that initially a stop work notice was issued by the engineers of the Corporation in August, 2022 but thereafter the said stop work notice was withdrawn in October, 2022.

The petitioner asserts that the construction that is being made in the first floor of the subject premises requires permission/sanction from the Corporation and in the absence of the same the said construction work cannot continue.

To ascertain the veracity of the allegation of the petitioner, the Court directs the Executive Engineer [Civil]/Building Department, Borough-V, Kolkata Municipal Corporation to cause a spot inspection of the subject premises upon prior notice to the parties to ascertain as to whether the construction work that is going on in the first floor of the subject premises requires sanction or not and whether the partition walls that are being constructed are adding up any extra load to the existing old structure.

The inspection shall be conducted by 02.03.2023 and a report be filed before this Court on 16.03.2023.

List the matter once again on 16.03.2023.

(AMRITA SINHA, J.)