

Rahat Khan and anr Vs. the K.M.C. and ors

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Court : Kolkata

Decided On : Feb-20-2014

Judge : Soumitra Pal

Appellant : Rahat Khan and anr

Respondent : The K.M.C. and ors

Judgement :

ORDER

SHEET IN THE HIGH COURT AT CALCUTTA Constitutional Writ Jurisdiction
ORIGINAL SIDE In the matter of: W.P.No.116 of 2014 RAHAT KHAN & ANR
Versus THE K.M.C.& ORS And W.P.No.1121 of 2013 NESAR AHMED versus
THE K.M.C.& ORS.BEFORE: The Hon'ble JUSTICE SOUMITRA PAL Date : 20th
February, 2014.

For Petitioner : MR.R.CHAKRABORTY,ADVOCATE MS.AMRITA LAL
DHAR,ADVOCATE MR.SANJAY SAHA,ADVOCATE
MR.N.C.BIHANI,ADVOCATE MR.N.GHOSH,ADVOCATE For KMC : MR.BARIN
BANERJEE,ADVOCATE MR.S.K.DEBNATH,ADVOCATE
MR.D.MONDAL,ADVOCATE For State: MR.S.ROYCHOWDHURY,ADVOCATE
The Court : In the writ petition being W.P.No.1121 of 2013 (Nesar Ahmed versus
Kolkata Municipal Corporation & Ors.).the petitioners have prayed for a direction
upon the authorities of the Corporation to take steps against the construction

raised at the premises no.44/1 Canal East Road, Kolkata allegedly without any sanction plan and for demolition of the same.

In the writ petition being W.P.No.116 of 2014 (Rahat Khan & Anr.

versus The K.M.C.& Ors).the petitioners have prayed for a direction upon the authorities of the Corporation to provide them with demolition sketch, precis, inspection report and the original complaint in the demolition proceeding relating to the same premises, that is, 44/1 Canal East Road, Kolkata.

It is submitted by Mr.Barin Banerjee, learned advocate for the Corporation that as the building at premises no.44/1 has been erected upto G+2 level without any sanctioned plan, steps have been taken under section 401 of the Kolkata Municipal Corporation Act, 1980 by issuing stop work notice and guards have been posted and the complaint has been lodged with the police.

Submission is since the matter is before the Director General Building of the Corporation, appropriate order may be passed for taking steps in accordance with law.

Learned advocate appearing on behalf of the Officer-in-charge, Narkeldanga Police Station submits on instruction that after complaint was lodged, investigation was carried out and the charge sheet along with CD was submitted before the learned Municipal Magistrate, Kolkata KMC Court on 18th January, 2014 vide C.S.No.15 of 2014 dated 17th January, 2014.

Let the written instruction furnished on behalf of the police authorities be kept on record.

Having heard the learned advocates for the parties and considering the submissions made on behalf of the Corporation, the writ petitions are disposed of by directing the Director General (Building).Kolkata Municipal Corporation to take appropriate steps within a fortnight from the date of presentation of a copy of the certified copy of this order in accordance with law.

However, in case proceedings are initiated, parties, including the persons responsible, shall be provided with the demolition sketch, precis, inspection report and original complaint for effective adjudication and opportunity of hearing shall be granted.

During proceedings the persons responsible shall produce the original sanctioned plan, if any.

No order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the appearing parties on priority basis.

(SOUMITRA PAL, J.) ssaha AR(CR)

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