

**In The High Court At Calcutta  
Constitutional Writ Jurisdiction  
Appellate Side**

**W.P.A 22428 of 2023**

**Anjan Kumar Bardhan  
-versus  
The Kolkata Municipal Corporation & Ors.**

Mr. Goutam Misra  
Mr. Vaskar Pal  
... for the petitioner.

Mr. Debjit Mukherjee.  
Mrs. Susmita Chatterjee.  
... For the K.M.C.

Mr. Prabhjot Singh.  
Mr. Sarbjit Singh.  
... For the respondent no. 8.

The matter relates to certain construction at premises No. 4, Nemai Bose Lane, Ward No. 17, Borough-II of the KMC.

The grievance of the petitioner is that the Corporation has demolished a portion of the construction without giving any notice to the petitioner.

Learned advocate representing the Corporation submits the report of the Executing Engineer, Building Department, Borough-II signed on 19<sup>th</sup> December, 2023, mentioning that on receiving a written complaint the department inspected the site and found that it is partly three storied existing building.

The person responsible constructed few brick walls in the second floor after demolishing the existing old brick wall. On demand, the person responsible

failed to produce any valid document in support of the said construction.

Notice under Section 401 of the KMC Act, 1980 was issued with intimation to the police station on 2<sup>nd</sup> August, 2023. The file with the demolition sketch was forwarded to the higher authority for future course of action and the higher authority passed order for demolition of the structure by invoking Section 400 (8) of the KMC Act. The department has demolished a part of the said structure with the assistance of Burtolla P.S. Due to strong obstruction of the person responsible and their representative, the demolition work could not be completed.

Learned advocate representing the petitioner submits that if any further demolition is made, the room that is existing will be in an uninhabitable condition.

Learned advocate representing the private respondent submits that if any new construction is permitted to remain the already dilapidated structure will collapse. The structure is so dilapidated that it cannot withstand any new further construction.

Upon hearing the parties, it appears that the Corporation by invoking Section 400 (8) has already demolished a part of the unauthorised construction.

Prior to effecting any further demolition, the Corporation is directed to afford an opportunity of hearing to the petitioner and the private respondent and thereafter take a decision as to whether any further demolition will be required or not. If there is no requirement to proceed with further demolition, then the same should not be proceeded with.

It will be open for both the parties to rely upon all documents in support of their respective stand.

The Corporation is directed to take a decision in the matter at the earliest but positively within a period

of eight weeks from the date of communication of this order.

If required, fresh spot inspection may be conducted upon notice to both the parties.

A reasoned order shall be passed and communicated immediately thereafter.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

**( Amrita Sinha, J.)**