

S/L 5
14.9.2020
AKB/SD

W.P.A. 2266 of 2019
IA No. 1 of 2020 (CAN 5144 of 2020)
(Via Video Conference)

Satrughan Khotik
Vs.
The Kolkata Municipal Corporation & Ors.

Mr. Raghunath Chakraborty
Ms. Sonali Sengupta

...for the Petitioner.

Mr. Alok Ghosh
Mr. S.K. Debnath
Mr. S. Panda

...for the KMC.

Mr. Satyajit Talukdar

...for the KMDA.

Mr. Satyajit Talukdar, counsel appearing on behalf of the Kolkata Metropolitan Development Authority (hereinafter called as 'KMDA'), submits that KMDA is a necessary party in this proceeding and accordingly, may be added in the writ petition.

Leave is granted to the petitioner to add KMDA as a party respondent to this writ proceeding and serve a copy of the writ petition upon the KMDA within three days from date.

This is an application under Article 226 of the Constitution of India wherein the writ petitioner is aggrieved by the survey observation report as also the new plan

sanctioned by the Kolkata Municipal Corporation (hereinafter called as 'KMC').

The case of the petitioner is that the petitioner is entitled to build a construction more than the area what has been sanctioned by the KMC.

Mr. Alok Ghosh, counsel appearing on behalf of the KMC, has fairly submitted that this issue may be decided by making an application/representation by the petitioner before the Board (as suggested by Mr. Alok Ghosh, counsel appearing on behalf of the KMC).

Mr. Raghunath Chakraborty, counsel appearing on behalf of the petitioner, placed reliance on *Kolkata Municipal Corporation vs. Keshab Prasad Shaw* reported in 2014(2) CHN Cal 294 to indicate that the Municipal Commissioner can decide the issue in the present writ petition.

In light of the above submissions, petitioner is directed to file a fresh application before the Board and the concerned Board is directed to pass a reasoned order after granting an opportunity of hearing to the petitioner/representative of the petitioner and the other respondents within a period of five weeks from the date of filing of the said application.

With these observations, W.P.A. 2266 of 2019 along with IA No.1 of 2020 (CAN 5144 of 2020) are disposed of.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Shekhar B. Saraf, J.)