

03.11.2020
Vacation Bench
Item No.07
(J.K.S & S.M)

(Via Video Conference)

WPA 8107 of 2020

**Fabworth Promoters Pvt. Ltd. & Anr.
-Vs-
Kolkata Metropolitan Development Authority & Ors.**

Mr. Surajit Nath Mitra.
Mr. Arindam Banerjee,
Mr. Pranit Bag,
Ms. Rituparna Chatterjee
..... For the petitioners.

Mr. Alope Kumar Ghosh,
Mr. Swapan Kumar Debnath,
.... For the K.M.C/Respondent No. 3

Since no affidavits have been called for, it is deemed that the allegations made in the writ petition are denied by the respondents.

The grievance of the petitioners is that, despite a specific order of this Court directing the KMDA to decide as to whether any development charge, as per the demand notice annexed at page 40 of the instant writ petition, is to be paid by the petitioners, the KMDA is not clarifying the basis of such claim to enable the petitioners to respond thereto comprehensively. It is clear from the order dated February 10, 2020, among other orders, that a Co-ordinate Bench of this Court specifically made it clear that the KMDA, while deliberating on whether development charges are to be imposed on the petitioner, shall give a right of representation/hearing to the present petitioners. However, although it is submitted on behalf of the KMDA

that the hearing has already commenced, it is not denied that the petitioners' specific queries as regards the substance of the hearing and of the dispute to be decided, as clarified at page 62 of the instant writ petition, have not been answered as yet.

It is rather obvious that unless the KMDA discloses the basis of its claim for development charges and of calculation of the quantum, if any, of such charges, it would not be possible for the petitioners to answer/controvert such claim for having a meaningful hearing prior to a decision being arrived at by the KMDA pursuant to the previous order of the Co-ordinate Bench, as indicated above.

The submission made on behalf of the KMDA as regards the proposition, that disclosure of the answer to the said questions as put by the petitioners shall amount to deciding the issue, leaving nothing to be decided further by the KMDA, does not hold water. The issue at hand has to be on the basis of specific claims made by the KMDA only after affording an opportunity of rebuttal, worth the name, to the present petitioners.

In such view of the matter, WPA 8107 of 2020 is disposed of by directing the KMDA to immediately disclose to the petitioners as to what are the factual and legal bases for imposition of such development charges, which are in question, the basis of calculation of the quantum of such charges, if leviable, and the legal basis of such claim for development charges. Such disclosure shall be made in writing on behalf of the KMDA and communicated to the

petitioner within a week from date. The KMDA will fix further date/dates for hearing within ten days from such communication, on the question whether development charges are to be imposed on the petitioners, as directed by the order dated February 10, 2020 in WP 89 of 2020 (page 53-54 of the writ petition), and give prior intimation regarding such date of hearing to the petitioner in due time.

(Sabyasachi Bahttacharyya, J.)