

ORDER SHEET

WPO/261/2019
IA NO.GA/1/2019
(Old No.GA/2074/2019)
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SRI RAGHABENDRA SINGH & ANR.
Versus
THE KOLKATA MUNICIPAL CORPORATION & ORS.

.....

BEFORE:

The Hon'ble JUSTICE ARINDAM SINHA

Date : 16th December, 2020.

Appearance:

Mr.Soumadipto Banerjee, Adv.

Ms.Debaleena Chatterjee ,Adv.

..for petitioners.

Mr. Shamba Chakraborty, Adv.

..for private respondent.

Mr. Ranajit Chatterjee, Adv.

..for KMC.

The Court:-Petitioners have moved this Court under article 226 of the Constitution of India for compelling the Corporation to initiate demolition proceeding in premises that are adjacent to theirs. Mr. Soumadipto Banerjee, learned advocate appears on behalf of petitioners and submits, construction has been made by private respondent, of two stories over sanctioned ground plus one storey. His further submission is that additional rooms have been constructed on sanctioned floors as well as on unauthorizedly constructed floors. He draws attention to order dated 2nd August, 2019 passed by coordinate Bench to submit, report was called for from the Corporation. The

report was filed before said Bench and rejected by order dated 29th August, 2019, requiring the Corporation to file fresh report. Mr. Chatterjee, learned advocate appears on behalf of the Corporation and submits, in the old Act there was saving clause regarding construction prior to its enactment. The Corporation has not been able to obtain information regarding when the building was constructed, it being an old building, standing on two premises numbers. Mr. Shamba Chakraborty, learned advocate appears on behalf of private respondent and submits, his client purchased the premises in years 1985 and 2007.

Prayers made in the writ petition are to compel the Corporation to consider petitioners' representation dated 27th March, 2019 and thereupon initiate demolition proceeding. The representation asserts existence of sanctioned plan in respect of the premises for ground plus one storey. On query from Court, Mr. Banerjee submits, his clients do not have copy of the plan nor did they take inspection of it.

The report filed says, inter alia, as follows:-

"During inspection it is found that a four storied fully commercial old building stands at the case premises. Although there are two different premises numbers but only one structure stands at present."

There is also disclosure of letter dated 3rd April, 2019 written on behalf of petitioners to, inter alia, Executive Engineer (Building) Department, seeking information whether

any sanctioned plan has been issued by Kolkata Municipal Corporation.

It is clear to Court that petitioners are fishing for evidence when the representation made does not disclose any material whatsoever. The building, standing on two premises, has been stated by the Corporation to be old. As such, there is nothing disclosed in the writ petition for this Court to be moved to interfere with the working of the Corporation.

This however will not prevent the Corporation from taking any step in the usual course of business regarding the premises in question, in accordance with law.

With above directions, writ petition along with connected application stands disposed of.

(ARINDAM SINHA, J.)

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