

WPO NO.526 OF 2019
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

BIMAN PAN
VS.
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:

The Hon'ble JUSTICE ARINDAM SINHA

Date : 23rd December, 2020.

Appearance:
Mr. Gopal Chandra Ghosh, Adv.
Mr. Prashant Agarwal, Adv.
For petitioner
Mr. Achintya Kr. Banerjee, Adv.
Mr. Anand Fermania, Adv.
Ms. Indu Moyli Banerjee, Adv.
For KMC

The Court :- Mr. Ghosh, learned advocate appears on behalf of petitioner. He submits, his client's grievance is that in adjacent premises, shed has been constructed from the boundary wall. He draws attention to, inter alia, paragraph 10 in the petition which is reproduced below:-

"That unfortunately till today the Municipal Corporation Authority has not taken any steps to remove the illegal shed and made any enquiry to ascertain the fact in order to avoid serious future complication in the matter for which the petitioner would be worst sufferer. Upon physical verification the petitioner has ascertained that the private respondents have left rear space only 9' to 10' feet instead of 5 meters equivalent to about 17' feet and both side space about 5 feet instead 4 meters. The private

respondents have already started construction by raising pillars. However, for last few days for reasons not known the petitioner the private respondents have kept the construction work suspended.”

There should be direction compelling the Corporation to demolish unauthorised construction made illegally, in purporting to construct pursuant to sanctioned plan.

Mr. Banerjee, learned advocate appears on behalf of the Corporation and submits, his client has caused inspection to be made. The temporary structures are for the masons and workers. They will be pulled down once the construction is complete. This is what has been told by the person responsible. He submits further, prior to issuance of completion and occupancy certificate there will be inspection to ensure that the construction has been made as per sanctioned plan.

The grievance is regarding temporary shed put up on mandatory open space and unauthorized construction. It is made clear that the Corporation, for purpose of issuance of completion or occupancy certificate, will ensure that the spaces are open on the new construction being built and ready for occupation. There can be no question of deviation, regularisation or retention in respect of mandatory open spaces. The Corporation will also ensure that the building or new construction is not used and occupied without

completion and occupancy certificate, to be obtained on satisfactory inspection on, intimation given to petitioner.

Affidavit filed be taken on record.

Writ petition is disposed of.

(ARINDAM SINHA, J.)

nm.