

5th March,
2021
(AK)
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W.P.A. 755 of 2021

Shivsubh Complex LLP & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Sanjoy Bose
Mr. P. Basu Mallick
...For the Petitioners.

Mr. Ranjit Chatterjee
Mr. Jayanta Kr. Dhar
...For the K.M.C.

Mr. Syed Shahid Imam
Md. Salahuddin
...For the Respondent Nos.3 to 7.

Mr. Pantu Deb Roy
Mr. Anand Farmania
...For the State.

It appears from the reports filed by the respective authorities and the submissions of parties, that the primary grievance of the petitioner in the present writ petition, about the private respondents having created a fire hazard by covering their allegedly illegal constructions with plastic sheds, has already been mitigated by replacing such sheds with non-flammable material.

However, learned counsel for the petitioners contends that, taking undue advantage of the order of this court granting liberty to the private respondents to alter the nature of the plastic sheds, the private respondents have made illegal constructions in violation

of the Kolkata Municipal Corporation Act and connected Rules.

Such contentions are controverted by learned counsel for the private respondents.

Both the private respondents as well as the respondent authorities submit that such allegations do not find place in the present writ petition and, as such, are beyond the scope of the writ petition.

Since the grievance primarily alleged in the writ petition regarding fire hazard has already been taken care of, there is no use in keeping the writ petition pending in this court.

However, in view of the allegations of illegality levelled by the petitioners, although this court cannot go into merits of the same within the purview of the present writ petition, the petitioners ought to have a liberty to approach the appropriate forum with such grievances.

Accordingly, W.P.A. 755 of 2021 is disposed of by granting the petitioners liberty to approach the Kolkata Municipal Corporation authorities and/or a competent Civil Court in the event the petitioners have any grievance regarding violation of the KMC Act and Rules in erecting the structures-in-question and/or regarding the title of the private respondents to such structures vis-à-vis that of the petitioners.

If such grievances are raised before the appropriate forum/court, such forum/court shall look into the matter

independently without being influenced by any of the observations made in this order.

It is further recorded that the averments made in the reports are not deemed to be admitted by any of the private parties, in view of the said parties having not been invited to use affidavits thereon.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)