

15.03.2021
SL No. 20
Court No.24
(P.M.)

WPA 1292 of 2021

**India Motor Parts & Accessories Ltd. & Anr.
Vs.
The Kolkata Municipal Corporation & Ors.**

Mr. Ajay Gaggar
... for the petitioners

Mr. Arnab Chakraborty
Mr. Prasenjit Saha
.... For the respondent No. 5

Mr. Ambar Nath Banerjee,
Mr. Subhrangshu Panda
.... For Kolkata Municipal Corporation

The petitioners are aggrieved by the order dated 26th November, 2020 passed by the Municipal Commissioner, Kolkata Municipal Corporation pursuant to the order passed by an Hon'ble Division Bench of this Court on 26th August, 2020 in MAT 478 of 2020 with CAN 3522 of 2020 arising out of W.P. 71(W) of 2020.

It appears from the impugned order that the Commissioner considered the representation filed by the petitioners and after going through all the documents and the submissions made on behalf of the parties as well as the departmental report submitted by the Executive Engineer (Civil) Building, Borough VI the Commissioner, was of the opinion that no action under section 397 of the Kolkata Municipal Corporation Act, 1980 can be taken in respect of the premises No. 14A, R.N. Mukherjee Road, Kolkata-700001. The Commissioner was of the opinion

that, there was no misrepresentation or fraudulent statement made by the private respondent to obtain the sanction plan.

The petitioners submit that the private respondents have got the plan sanctioned in their favour by showing certain portions of land which belonged to the petitioners.

The private respondent submits that there has been no misrepresentation on their part at the time of sanction of the building plan in respect of the said premises. It has been submitted that the private respondent got the plan sanctioned on the basis of the boundary declaration given by it. It has further been submitted that premises No.14 and 14A are two independent premises separated by a boundary wall which is in existence for the last thirty five years.

The learned Advocate for the Kolkata Municipal Corporation submits that there are two different boundary declaration submitted by the parties, one of the year 2009 and the other 2013. The private respondent produces the boundary declaration of 2013 relying which the plan was sanctioned.

It appears from the submissions made on behalf of the petitioners that the title of the land which the petitioners claim to be their own is clouded and the same could not have been resolved by the Commissioner of the Kolkata Municipal Corporation.

The writ Court is also not the appropriate forum for adjudication or declaration of the title of the disputed portion of the plot of land which the petitioners claim to be theirs. There are several disputed questions of fact involved herein and the same cannot be resolved before the writ Court.

In view of the above, no relief can be granted to the petitioners in the instant case.

WPA 1292 of 2021 stands dismissed.

However, dismissal of the writ petition will not stand in the way of the writ petitioners from approaching the appropriate forum, in accordance with law, for redressal of their grievances, if so advised.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)