

S/L 27  
13.09.2021  
Court. No. 19  
GB

WPA 3610 of 2021

Hrishikesh Paul  
Vs.  
The Kolkata Municipal Corporation & Ors.

(Through Video Conference)

*Mr. Krishnadas Poddar.*

*...for the Petitioners.*

*Mr. Sandipan Banerjee.*

*...for the K.M.C.*

Despite service none appears on behalf of the respondents Nos. 5 to 9.

The petitioner alleges that the respondent nos.5 to 9 have been constructing on a plot of land adjacent to premises no.14B, Mahatma Sisir Kumar Sarani, Kolkata – 700003.

It is the contention of the petitioner that in the process of such construction serious damage has been sustained by his building. It is submitted by the petitioner that the Building Rules of the Kolkata Municipal Corporation casts a duty upon the person making the new construction to follow certain restrictions and take measures in order to ensure that adjacent buildings are not damaged in the process of such construction. That the building rules and the condition of sanction also provide for these safeguards. According to the petitioner, despite several representations, the Kolkata Municipal Corporation have not taken steps in accordance with law.

Mr. Banerjee, learned advocate appearing on behalf of the Kolkata Municipal Corporation submits that written instructions have been received from the Executive Engineer (C), Building Department, Borough-I, Kolkata Municipal Corporation. It has been found on inspection that the construction has been going on in accordance with law without any violation of the sanction plan. The report is kept on record.

Be that as it may, the allegation of the petitioner is that the construction is being carried on in a manner, which has caused damage to the existing structure of the petitioner.

Under such circumstances, the petitioner is granted liberty to make a comprehensive application before the Executive Engineer (C) Building Department, Borough-I, Kolkata Municipal Corporation along with the photographs in order to show the extent of damage caused. Such application shall be filed within two weeks from date. The concerned authority shall dispose of the same in accordance with law upon hearing the petitioner as also the respondent nos.5 to 9 and/or their representatives. A reasoned order shall be passed and communicated to all concerned and steps shall be taken in order to ensure that no damage takes place in the building enjoyed by the petitioner. If it is found on inspection by the authority that the continuing construction of the G+3 storeyed building has caused some damage and instability to the premises of the petitioner, the Corporation shall pass necessary orders in accordance with law, requiring the

precautionary and other measure to be taken in the process of such construction, including protecting and securing the damage done to the petitioner's premises in accordance with law.

This Court has not gone into the merits of the claims of the petitioner.

The entire exercise shall be completed within a period six weeks from date of receipt of the application of the petitioner.

Accordingly, the writ petition is disposed of.

However, there shall be no order as to costs.

Parties are directed to act on the basis of the server copy of this order.

**(Shampa Sarkar, J.)**