

Item No.9

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(via video conference)

28.06.2021
Ct-24

WPA 4390 of 2021

Bhola Shaw

v.

The State of West Bengal & Ors.

Mr. Dyutiman Banerjee

... for the petitioner.

Mr. Debabrata Chatterjee

Mr. Arjun Samanta

... for the State.

Mr. Debjit Mukherjee

... for KMC.

The petitioner alleges illegal and unauthorized construction by the private respondent in the Premises No. 121, Dr. G.S. Bose Road, Kolkata- 700 039.

In the representation which was filed on behalf of the petitioner before the Kolkata Municipal Corporation on 16th October, 2020 a building permit number along with the date was specifically mentioned.

The petitioner in paragraphs 13 and 14 of the writ petition has mentioned that the private respondent is making construction by joining Premises Nos. 121 and 122 of Dr. G.S. Bose Road and demolished the passage of the Premises No. 121. It has further been alleged that

the private respondent does not have any right, title and interest over the Premises No. 121.

The petitioner claims to be the owner of the Premises No. 121, Dr. G.S. Bose Road. The petitioner has also mentioned in the writ petition that a Title Suit being T.S. No. 639 of 1990 renumbered as T.S. 19 of 1995 in respect of the Premises No. 121, Dr. G.S. Bose Road is pending consideration before the learned First Additional Civil Judge (Junior Division), Alipore and an order of status quo has been passed therein which is subsisting till date.

The petitioner through his learned advocate in the detailed representation before the Kolkata Municipal Corporation highlighted the illegalities and alleges that the same has not been taken into consideration till date.

None appears on behalf of the private respondent.

The learned advocate representing the Kolkata Municipal Corporation submits, upon instruction, that on receipt of the complaint filed by the petitioner the department inspected the premises and found that there is an existing RT/asbestos shed structure at the Premises No. 121, Dr. G.S. Bose Road. No new construction has been found in the said premises.

It has further been found that there is a sanctioned plan for construction of G+4 storied residential building at the Premises No. 123, Dr. G.S.

Bose Road, vide BP No. 2019070063 dated August 1, 2019. Construction has been made upto the plinth level in accordance with the plan sanctioned.

From the aforesaid submissions it appears that the allegation of construction being made by the petitioner in respect of the Premises No. 121, Dr. G.S. Bose Road is not substantiated from records. In respect of the construction made at the Premises No. 123 it appears from the instruction given that the same is being made in accordance with the plan sanctioned.

In view of the above, no relief can be granted to the petitioner in the instant case. The private right, title and interest of the parties shall be governed by the order passed by the learned Civil Judge in the pending Title Suit.

The writ petition stands dismissed.

The instruction given by the Kolkata Municipal Corporation to the learned advocate is retained with the records.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)