

Court No. 24

28.06.2021

(Item No. 16)

(AB)

**W.P.A 10174 of 2021
(Via Video Conference)**

Amitava Sen

vs

The Kolkata Municipal Corporation & Ors.

Mr. Tanmay Mukherjee
Mr. Emon Bhattacharjee
Mr. Rudranil Das
Mr. Balaram Sardar
Ms. Pooja Sah

..... for the petitioner

Mr. Alok Kumar Ghosh
Mr. Gopal Chadra Das

..... for the KMC

None appears on behalf of the private respondents despite service. Affidavit of service filed in Court today is taken on record.

The petitioner alleges illegal and unauthorized construction of shop rooms by Dinesh Agarwal, Rakesh Agarwal and M/S. Hari Jewellery being the respondent Nos. 5, 6 and 7 respectively.

According to the petitioner, the construction has been made in such a manner that the ingress and egress to the petitioner's plot at 1, Fern Road, Kolkata, – 700 019, Ward No. 68, Borough – VIII, P.S. Gariahat has been completely blocked. The petitioner raised objection before the Municipal Commissioner by a representation dated 25th February, 2021 and he alleges that the said representation has not been considered till date.

The learned advocate representing the Kolkata Municipal Corporation submits that the

alleged illegal/unauthorized shop rooms are in existence prior to the petitioner obtaining right, title and interest of the premises at 1, Fern Road, Kolkata – 700 019. It has been submitted that presently no new construction has been made by the private respondents.

As it appears that the representation of the petitioner objecting to the illegal and unauthorized construction is pending consideration at the end of the respondent authorities, no useful purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the respondent No. 2, Municipal Commissioner, Kolkata Municipal Corporation through its authorised officer to consider and dispose of the representation made by the petitioner strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties, including the petitioner, at the earliest, but positively within a period of twelve weeks from the date of communication of a copy of this order.

The said respondent shall pass a reasoned order and communicate the same to all the necessary parties, including the petitioner, immediately thereafter.

In the event the aforesaid respondent is of the considered opinion that the construction has been

made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorised construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by the petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The petitioner is directed to forward a copy of the representation dated 25th February, 2021 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of usual legal formalities.

(Amrita Sinha, J.)