

23.07.2021
Court No. 19
Item no.07
CP

WPA 10228 of 2021

M/s. Shek Developers & ors.
Vs.
Kolkata Municipal Corporation & ors.

(via video conference)

Mr. Partha Sarathi Bhattacharyya, Sr. Adv.
Mr. Sounak Bhattacharyya
Mr. Himadri Chakraborty
Mr. Pranab Kumar Saha
Ms. Priyanka Lama
Ms. H. Jalan

....for the petitioners.

Mr. Achintya Kumar Banerjee
Mr. Rudranil De
Ms. Indumouli Banerjee

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

Sk. Md. Galib
Mr. Raja Saha
Mr. Amit Kumar Ghosh
Mr. Subhra Nag

....for the State.

Despite service none appears on behalf of the respondents Nos. 7 to 13. Affidavit of service is taken on record.

The petitioners pray for implementation of the notice dated December 15, 2020, issued by the Executive Engineer Civil (Bldg.), Borough No. IV & V, Building Department, Kolkata Municipal Corporation. The Kolkata Municipal Corporation

required the land owner to demolish the endangered portion of Premises No. 26, Buddhu Ostagar Lane, Raja Ram Mohan Roy Sarani, Kolkata – 700 009 and to secure the rest of the portion of the existing building by thorough and adequate repairing, without changing the nature and character and dimension of the building so that, the inmates and the people outside would be safe. It was further required that the repairing work should be done under the supervision of the Kolkata Municipal Corporation.

Mr. Bhattacharyya, learned senior advocate appearing on behalf of the petitioners, submits that it is the bounden duty of the Kolkata Municipal Corporation to demolish the premises.

On a perusal of the notice it appears that the notice had two parts. First, that the endangered portion should be demolished by the owner and the rest of the building should be repaired without changing the nature and character of the building under the supervision of the Kolkata Municipal Corporation enlisted L.B.S./E.S.E. The inmates should be safe and secure.

It is submitted by Mr. Banerjee, learned advocate appearing on behalf of the Kolkata Municipal Corporation, that the municipal corporation cannot be asked to demolish the

structure on the prayer of the petitioner no. 1. The petitioner No.1 is the developer of the property in question. The notice does not have any relation to the subsequent development agreement entered into between the petitioner no. 1 and the landlord. The municipal corporation, under the law, asked the landlord/owner to demolish certain endangered portions and to repair the remaining portions for the safety of the inmates under the supervision Kolkata Municipal Corporation's enlisted L.B.S./E.S.E. It is submitted by Mr. Banerjee that the owner failed to repair in terms of the notice. That the writ petition is an indirect way of ensuring demolition of the structure and facilitate development of the property, without coming to a settlement with the inmates/tenants.

Under such circumstances, the writ petition is disposed of with a liberty to the petitioners and the owner/noticee to approach the appropriate authority of the Kolkata Municipal Corporation for supply of the name of enlisted LBS/E.S.E. for supervision and guidance so that the works enlisted in the notice issued under Section 411 (1) of the Kolkata Municipal Corporation Act, 1980 may be carried out by the petitioners and/or the land owner.

If such approach is made, the competent authority shall co-operate with the petitioners/land

owners and guide them how the notice issued by the corporation should be implemented by the petitioners/land owners.

This court has not gone into the question of rehabilitation of the tenants or any such issues raised in the development agreement. The competent authority shall act and proceed according to law and shall grant a hearing to the petitioners and the respondents Nos. 7 to 13 before taking any decision.

With the above observations, this writ petition is disposed of. There shall be no order as to costs.

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

(Shampa Sarkar, J.)