

S/L 11
02.09.2021
Court. No. 19
GB

WPA 10440 of 2021

Maitab Hossain Molla & Anr.
Vs.
The State of West Bengal & Ors.

(Through Video Conference)

Mr. Arup Krishna Das.

...for the Petitioners.

Mr. Debdutta Raha.

...for the Respondent Nos.6 to 12.

*Mr. Ranajit Chatterjee,
Mr. Aniruddha Mitra.*

...for the K.M.C.

*Mr. Bibek Jyoti Basu,
Mr. Subrata Ghosh.*

...for the State.

Affidavit-of-service filed in Court today be kept with the record.

The grievance of the petitioners is that the respondent nos.6 to 12 have been constructing on premises no.V-48A, Karbala Road, P.S. – Rajabagan, Kolkata – 700018, unauthorizedly and without a sanction plan. It is further contended that the said respondents have encroached into a portion of the land belonging to the petitioners and have been stacking building materials thereon, illegally.

Mr. Raha, learned advocate appearing on behalf of the respondent nos.6 to 12 submits that the allegations of encroachment and the boundary disputes raised by the petitioners cannot be adjudicated in this proceeding. He

further submits that even the corporation cannot be directed to enquire into such allegations.

Mr. Chatterjee, learned advocate appearing on behalf of the Kolkata Municipal Corporation submits that the corporation has already issued a stop work notice and the proceeding with regard to such unauthorized construction as per the statute shall be initiated forthwith.

Having considered the rival contentions of the parties, this Court is of the opinion that no further order needs to be passed in this writ petition, save and except, that the corporation shall initiate the proceeding in accordance with law and pass a reasoned order and take such decision as permissible under the law upon giving a hearing to the petitioner as also the respondent nos.6 to 12. An inspection shall be held and the report of the said inspection shall also be supplied to the parties before the hearing. The respondent nos.6 to 12 shall be allowed to place their case and seek for such reliefs available under the statute, which shall be considered in accordance with law.

This Court has not gone into the merits of the claims and counter-claims of the parties. The competent authority of the corporation shall decide the issue independently and in accordance with law. It is further clarified that the question of title, boundary dispute, encroachment are not to be gone into by the corporation. The corporation shall restrict its decision and enquiry only with regard to the allegations of unauthorized construction, that is, whether the

respondent nos.6 to 12 have been constructing in violation of a sanction plan or in the absence of a sanction plan.

As no affidavits have been called for, the allegations against the respondents are deemed to be denied.

The entire exercise shall be completed within a period of four months from date of communication of this order.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All parties are directed to act on the basis of the learned advocate's communication.

(Shampa Sarkar, J.)