

22.07.2021
Sl. No.19
srn

W.P.A. No. 11228 of 2021

Faimeed Hossain
Vs.
Kolkata Municipal Corporation & Ors.

Ms. Amrita Pandey,
Ms. Anamika Pandey
...for the Petitioner.

Mr. Debjit Mukherjee,
Mr. K. Bhattacharya
...for the Respondent Nos.10 & 11.

Mr. Suvodip Bhattacharjee
...for the Respondent Nos.12 & 13.

Mr. Ranajit Chatterjee
...for the KMC.

Mr. Jishnu Chowdhury,
Mr. Himadri Sekhar Chakraborty
...for the State.

Affidavit-of-service is taken on record.

The petitioner has alleged unauthorised construction at Premises No.34, Jadavgarh Colony, P.O. Haltu, Kolkata – 700 078. The specific contention of the petitioner is that the respondent Nos.12 and 13 as developers had constructed on the premises without a sanctioned plan. The petitioner is one of the persons who had booked the flat upon payment of a sum of Rs.18 lakh. A receipt showing such payment is annexed to the writ petition. Subsequently, the petitioner came to know that the building was being constructed unauthorizedly. The petitioner fearing that the illegal building may be demolished at any time by the Kolkata Municipal Corporation and the

money that was deposited as a booking cost would be lost in the process, filed the writ petition on allegations of inaction of the Kolkata Municipal Corporation in acting on the basis of the complaint lodged by the petitioner.

The petitioner is an interested party in the entire project and the petitioner has invested the money in the same. The petitioner is entitled to challenge any illegality of a building which may be sold to the petitioner for valuable consideration. The petitioner will suffer irreparable loss and injury if ultimately the building is found to be unauthorized and demolished by the Kolkata Municipal Corporation, for violation of the statutory provisions.

Mr. Debjit Mukherjee, learned Advocate appearing on behalf of the respondent Nos.10 and 11 submits that the respondent Nos.12 and 13 are not the developers. At present a new developer has come in their place. The respondent Nos.12 and 13 did not obey the terms of the development agreement and as such the development agreement between the parties had been cancelled.

Mr. Ranajit Chatterjee, learned Advocate appearing on behalf of the Kolkata Municipal Corporation, submits that an inspection has already been made by the authorities. A 'stop work notice' had also been served and unauthorised construction had been detected. He prays that some time may

be allowed to the municipal corporation to initiate proceedings in terms of the statute.

Mr. Suvodip Bhattacharjee, learned Advocate appearing for the respondent Nos.12 and 13, submits that the petitioner does not have any *locus standi* to maintain the writ petition. He further submits that an opportunity may be given to the said respondents to obtain sanction plan from the Kolkata Municipal Corporation.

Mr. Jishnu Chowdhury and Mr. Himadri Sikhar Chakraborty, learned Advocates appear on behalf of the State-respondents and submit that an enquiry was made by the police authorities and it was found during the physical inspection that a four-storied building had been constructed. The Executive Engineer, Building Department, Borough-XII, Kolkata Municipal Corporation was also requested to hold a joint inspection.

As the police authorities have already requested the Kolkata Municipal Corporation to hold a joint inspection, this writ petition is disposed of with a direction upon the competent authority of the Kolkata Municipal Corporation to cause a joint inspection in presence of the respective parties forthwith. Notice of inspection shall be served upon the petitioner and also the respondent Nos.10 to 13. The minutes of the inspection shall be signed by all the parties. A copy of

the report shall be supplied to all the parties. The competent authority of the Kolkata Municipal Corporation shall reach the proceedings to its logical conclusion in accordance with law by strictly adhering to the procedure provided in the statute and upon giving a hearing to all concerned. A reasoned order shall be passed and communicated to all concerned. Interim measures can be adopted to prevent any illegality, if detected.

This Court has not expressed any view with regard to the issues raised by the respective parties and the competent authority of the Kolkata Municipal Corporation shall act and proceed independently and in accordance with law.

The entire exercise shall be completed within a period of twelve weeks from the date of communication of this order.

The parties may be allowed to be represented by their learned Advocates at the time of hearing.

This writ petition is, thus, disposed of.

There will be no order as to costs.

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

(Shampa Sarkar, J.)