

20.07.2021
Court No. 19
Item no.17
sn

WPA No. 11199 of 2021

AFTAB ALAM VS. THE STATE OF WEST
BENGAL & ORS.

(via video conference)

Mr. Soumen Bhattacharjee
Mr. Tanmoy Kumar Dey

...for the petitioner

Mrs. Chama Mookherjee
Ms. Paramita Pal

..for the State

Despite service none appears on behalf of the
respondent Nos.7 to 11 as also the Kolkata Municipal
Corporation.

Let the affidavit of service be taken on record.

Mr. Debjit Mukherjee, learned Advocate, who
usually appears on behalf of the Kolkata Municipal
Corporation, is requested to appear in this matter
with his junior Ms. Susmita Chatterjee, learned
Advocate. Their appearances may be regularised.

The petitioner claims to be a bharatia in
respect of one room, kitchen along with common
bath and privy on the ground floor at premises
No.155/H also known as 155/H/18, Keshab
Chandra Sen Street, Kolkata – 700 009 at a monthly
rental of Rs.150/- according to English calendar
month.

The allegation of the petitioner is that the respondent Nos.7 to 11 have been continuing unauthorised construction on the premises in question. According to the petitioner, the land in question is a thika land. No permission from the Thika Controller had been obtained.

This Court is not competent to decide the question of title or the nature of the land in question. However, as there are allegations of unauthorised construction and complaints of such unauthorised construction have been filed before the Kolkata Municipal Corporation, the writ petition is entertained to this limited extent. The Kolkata Municipal Corporation is directed to look into the grievances of the petitioner and dispose of the representation dated June 21, 2021 (at page 20 of the writ petition).

It is submitted by the Corporation, that in respect of the self-same premises certain complaints have been lodged by other persons claiming to be bharatias and an inspection has been done by the Corporation.

A stop work notice has been issued and an FIR has been lodged under Section 401A of the Kolkata Municipal Corporation Act. Proceedings under Section 400 has also been initiated.

Under such circumstances, this writ petition is disposed of with a direction upon the Kolkata Municipal Corporation to dispose of the proceeding initiated in accordance with law and upon observing the principles of natural justice and reach the same to its logical conclusion.

This Court has not decided the merits of the claim of the petitioner and the entire proceeding shall be decided by the Kolkata Municipal Corporation upon hearing all the parties including the respondent Nos.7 to 11 and a reasoned order should be passed and communicated to all concerned.

The entire exercise should be completed within a period of 12 weeks from the date of communication of this order.

This writ petition is thus disposed of.

There will be however no order as to costs.

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

(Shampa Sarkar, J.)