

22.07.2021
Sl. No.15
srm

W.P.A. No. 11213 of 2021

Mohammad Iqbal

Vs.

**The Municipal Commissioner,
Kolkata Municipal Corporation & Ors.**

Mr. Biswajit Chatterjee

Md. Shakir,

...for the Petitioner.

Ms. Tanushree Dasgupta,

Mr. Santanu Chatterjee

...for the KMC.

Mr. Naba Kumar Das,

Mr. Subhabrata Das

...for the State.

Affidavit-of-service is taken on record.

None appears on behalf of the respondent Nos.7 to 11 despite service.

The writ petition has been filed challenging unauthorised construction by the respondent Nos.7 to 11. The allegation of the petitioner is that the respondent Nos.7 to 11 have been constructing illegally and without a sanction plan at Premises No.46/H/13, Canal East Road, P.S. Narkeldanga, Ward No.29, Kolkata 700 011.

It is the contention of the petitioner that by ignoring repeated warnings and requests of the petitioner, the said respondents have continued with their illegal activities by raising an unauthorized construction.

Mr. Das, learned Advocate appearing on behalf of the State-respondents, submits a report prepared by the Officer-in-Charge, Narkeldanga Police Station, which is taken on record. It appears from the report that on the basis of a complaint lodged by the Assistant Engineers (Civil)/Bldg./Br-III, that the petitioner and two other persons have been making an unauthorised construction on the plot in question, an FIR was drawn up and Narkeldanga Police Station Case No.24 dated January 25, 2019 had been initiated. The police authorities have also made an inspection. It was found that no construction was being carried on at the time of inspection. It also appears from the report that the Officer-in-Charge of the concerned police station requested the Director General, Building-II, KMC, Kolkata, to make arrangements for conducting joint inspection of the premises.

The specific case of the petitioner is that the respondent Nos.7 to 11 are responsible for the unauthorised construction.

Be that as it may, this Court cannot go into the disputed questions of facts. As the police authorities have already acted on the basis of the complaint lodged by the Kolkata Municipal Corporation and have requested the Kolkata Municipal Corporation to hold a joint inspection, in my opinion, a joint inspection should be carried out by the competent authority of the Kolkata Municipal Corporation along with the police

personnel forthwith, in presence of the petitioner as also the representative of the respondent Nos.7 to 11. A prior notice shall be given to all the parties. The minutes of the inspection shall be signed by all the parties. The report of the inspection shall be handed over to all concerned. A hearing shall be given and a reasoned decision shall be passed by the competent authority of the Kolkata Municipal Corporation. On the basis of what transpires in the inspection, the competent authority of the Kolkata Municipal Corporation shall act and proceed in accordance with law and reach the same to its logical conclusion. The entire exercise shall be completed within a period of 12 weeks from the date of communication of this order.

The order shall not be construed as an opinion expressed by the Court with regard to the involvement of the petitioner in the criminal case in respect of the unauthorised construction. The entire matter shall be decided independently and in accordance with law and action shall be taken against any unauthorised construction on the premises in question.

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.)