

S/L 8
01.09.2021
Court. No. 19
GB

WPA 11994 of 2021

Biswajit Mishra
Vs.
The Kolkata Municipal Corporation & Ors.

(Through Video Conference)

Mr. B.N. Ray,
Mr. S. Ray.

...for the Petitioner.

Mr. Deobrat Upadhyay.

...for the Respondent No.9.

Mr. Navneet Misra.

...for the Respondent No.10.

Mr. Subhrangsu Panda.

...for the K.M.C.

Mr. Subhabrata Datta,
Mr. Sanatan Panja.

...for the State.

The writ petition has been filed alleging unauthorized construction at the instance of the respondent nos.9, 10 and 11. The learned advocates for the respondent nos.9 and 10 are present before the Court. None appears on behalf of the respondent no.11. The State respondents and the corporation are represented.

The petitioner alleges that the respondent nos.9 to 11 have been constructing unauthorizedly on two premises being premises no.T5/1E and T5/1G, Cossipore Road, Kolkata – 700002. It is contended that the said premises are Thika property and without permission from the Thika Controller the construction cannot be done. It is next

contended that the said construction has been done without any sanction plan.

Mr. Upadhyay and Mr. Misra, learned advocates appearing on behalf of the respondent nos.9 and 10 submit that their clients are not connected with the alleged construction and they do not stand in the way of the Court passing any order with regard to the said construction. The respondent nos.9 and 10 also submit that they are not responsible for the construction and the allegations made in the writ petition against the said respondents are deemed to be denied.

Mr. Panda, learned advocate appearing on behalf of the Kolkata Municipal Corporation submits a report prepared by the Assistant Engineer (Civil) Building Department, Kolkata Municipal Corporation, Borough – I. The said report is taken on record. From the said report it appears that a three storied structure has been constructed on certain premises being 5, 5/1 Cossipore Road, which was subsequently renumbered as T5/1E and T5/1G, Cossipore Road. A stop work notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 has been served upon Rabi Shaw and Tarak Nath Shaw and others. An F.I.R. has also been lodged under Section 401A of the said Act.

It is submitted that the respondent nos.9 to 11 are not the persons responsible in the assessment of the corporation but some other persons are responsible. However, as the corporation has already taken steps, nothing remains to be

decided in the writ petition, save and except, that the corporation shall take necessary steps under the law and reach the same to its logical conclusion upon due notice to the persons responsible and upon allowing them an opportunity of hearing.

As an interim measure, the corporation shall be entitled to take such steps that may be necessary to stop any further unauthorized construction. All further actions to be taken by the corporation shall be with notice to and in presence of the persons responsible as per the contention of the Assistant Engineer (Civil), Kolkata Municipal Corporation.

The entire exercise shall be completed within a period of ten weeks 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.)