

11.11.2021
Sl. No.5
srm

W.P.A. No. 13095 of 2021

Golam Rashid

Vs.

The Kolkata Municipal Corporation & Ors.

Mr. Sumitava Chakraborty,
Mr. Siddhartha Deb Roy

...for the Petitioner.

Mr. Billwadal Bhattacharyya,
Mr. Anish Kumar Mukherjee,
Mr. Amrit Sinha

...for the Respondent No.7.

Mr. Subhrangshu Panda,
Mr. Abhishek Sikder

...for the KMC.

The writ petition has been filed alleging unauthorised construction by the respondent No.7 in the following premises:

- a. B/64/H/3, Broad Street, Kolkata 700019;
- b. 17/A, Bright Street, Kolkata 700017;
- c. B2/H/5, Radha Gobinda Saha Lane, Kolkata 700017;
- d. 13/2, Tiljala Lane, Kolkata 700019.

It is submitted that the said constructions have either been made without a sanction plan or in deviation of the sanction plan. It is further submitted that the nature of constructions are not stable and the buildings may collapse at any moment.

Mr. Bhattacharyya, learned Advocate appearing on behalf of the respondent No.7, denies such allegations. Mr. Bhattacharyya submits that no construction is being raised by the respondent No.7 at premises No. B/64/H/3, Broad Street, Kolkata 700019 in view of certain disputes over the development agreement. He further submits that the respondent No.7 does not have any nexus with the construction on 13/2, Tiljala Lane, Kolkata 700019. With regard to other constructions, that is on premises No. 17/A, Bright Street, Kolkata 700017 and B2/H/5, Radha Gobinda Saha Lane, Kolkata 700017, sanctions have been granted by the Kolkata Municipal Corporation. Copies of the sanction plan have been handed over to the Court, which are kept on record. According to Mr. Bhattacharyya, the constructions on these plots are being raised strictly in accordance with the sanction plan.

Mr. Panda, learned Advocate appearing on behalf the Kolkata Municipal Corporation, submits that with regard to construction at premises No. B/64/H/3, Broad Street, Kolkata 700019, a stop work notice has already been issued. However, there is no clear instruction with regard to the other constructions.

Having heard the learned Advocates for the respective parties, this Court is of the opinion that as the respondent No.7 is not claiming any responsibility for the constructions at

premises No.B/64/H/3, Broad Street, Kolkata 700019 and on 13/2, Tiljala Lane, Kolkata 700019, the Court does not think it necessary to pass any orders with regard to the said constructions in this proceeding against the respondent No.7.

With regard to the constructions at the premises Nos. 17/A, Bright Street, Kolkata 700017 B2/H/5, Radha Gobinda Saha Lane, Kolkata 700017, this writ petition is disposed of with a direction upon the competent authority of the Kolkata Municipal Corporation to dispose of the objection of the petitioner dated April 27, 2021 in accordance with law. The corporation shall inspect those premises in presence of the parties. Copy of the inspection reports shall be supplied to the parties. Thereafter a hearing shall be held upon giving an opportunity to all the parties to make their submissions and produce their documents in support of their contentions. Upon conclusion of the hearing, the matter shall be reached to its logical conclusion. A reasoned order shall be passed and communicated to the parties.

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

This Court has not gone into the merits of the claim of the petitioner and the contention of Mr. Bhattacharya that the petitioner has moved the writ petition as an arm twisting

method in order to purchase the flat at a cheaper rate are left open to be decided in an appropriate proceeding.

The question of title, encroachment, boundary dispute shall not be looked into by the corporation. The corporation shall only restrict its finding as to whether the buildings have been constructed in accordance with the plan or not.

As the corporation has already been directed to decide the issues, no disturbance shall be created by the police authorities unless they have been specifically requested by the corporation to intervene and take action.

This writ petition is, thus, disposed of.

There will be no order as to costs.

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

(Shampa Sarkar, J.)