

29.09.2021
Court No. 19
Item no.21
CP

WPA 13687 of 2021

Vijaya Jhunjhunwala
Vs.
The Kolkata Municipal Corporation & Ors.

(Through Video Conference)

Mr. S.E. Huda,
Mr. Sayan Ray,
Mr. Samrat Chowdhury.

... for the Petitioner.

Ms. Poushali Banerjee.

... for the K.M.C.

Mr. Aniruddha Mitra
Mr. Amitabh Ray
Mr. Pramod Kumar Bagaria
Ms. Parna Mukherjee

....for the respondent no. 6.

Mr. Manas Kr. Kundu,
Mr. Debabrata Mondal.

... for the State.

The allegation in the writ petition is with regard to alleged unauthorized construction of a lift at premises no. 6D, Short Street, Kolkata – 700016. It is submitted by the petitioner that the building is 60 years old and the structural stability of the building will be hampered if the lift is installed. It is further submitted that the said lift will block ingress and egress of the petitioner to the petitioner's residential area.

Ms. Banerjee, learned advocate appearing on behalf of the Kolkata Municipal Corporation, submits on instruction that the sanction plan provided for a lift.

To counter this submission, the petitioner submits that the sanction plan expired long ago and without revalidation of the said sanction, the lift cannot be installed.

Mr. Mitra, learned advocate appearing on behalf of the respondent no. 6, hands over a compilation of documents from which it appears that a civil suit is pending with respect to the property in question and the civil court had refused injunction. He next submits that the lift well had already been constructed in the premises at the time of the initial construction, but the machine had not been installed. That the installation of the said lift will not hamper the ingress and egress of the petitioner to the premises in question as the petitioner resides in the ground floor. It is further submitted that the mother of the respondent no. 6 and the petitioner is 90 years old and she resides on the top floor, for which the lift is necessary. It is further submitted that the lift to be installed is a single phase home lift, no licence would be necessary from the Directorate of Electricity, Government of West Bengal. Reference is made to the communication of the Joint Chief

Electrical Inspector and Member Secretary (Lifts),
Government of West Bengal.

Having considered the aforementioned submissions, this court is of the opinion that the writ petition should be disposed of with a direction upon the competent authority of the Kolkata Municipal Corporation (hereafter referred to as the corporation), to inspect the premises and determine whether the lift to be installed can be done without disturbing the ingress and egress of the petitioner and such installation shall not affect the structural stability of the building. A licensed/empanelled structural engineer of the corporation shall be appointed to inspect the premises at the cost of the respondent no. 6. The inspection shall be done in presence of the parties.

Further, the corporation will also ascertain whether any further permission or revalidation of the plan would be necessary to enable such installation. If the structural engineer files a positive report in favour of the installation after holding an inspection in the presence of the parties and/or their representatives, then the installation shall be allowed subject to compliance of other formalities including obtaining permission from the corporation if required under the rules. The corporation shall pass a

reasoned order to that effect. The reasoned order shall be communicated to all concerned.

As it is already submitted that no lift has yet been installed and made operational, such status quo shall be maintained till the decision of the corporation.

The entire exercise shall be completed within November 18, 2021.

This writ petition is, thus, disposed of. There will be, however, no order as to costs.

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

(Shampa Sarkar, J.)