

24.11.2021
Court No. 19
Item no.21
sn

WPA No.14172 of 2021

BIJAN PAUL
VS.
THE STATE OF WEST BENGAL & ORS.
(via video conference)

Mr. Somenath Ghosal
Md. Salamuddin
Mr. Amar Krishna Saha ...for the Petitioner

Mr. Susanta pal
Ms. Ananya Neogi ..for the State

Mr. Gopal Chandra Das
Ms. Shabnam De ..for the KMC

Mr. Debnath Ganguly
Ms. Aishwarya Pratihara ..for the respondents.8&9

It is submitted by the learned advocate for the petitioner that there has been unauthorized constructions on the premises no. B/502/H/4, Rabindra Sarani, Police Station Shyampukur, Kolkata 700 005.

According to the petitioner, additional floors have been constructed without any sanction from the Kolkata Municipal Corporation. It is further submitted by him that the premises in question is a thika property and no construction can be permitted without the permission of the Thika Controller.

Records reveal that a civil suit was filed being Title Suit No. 527 of 2021 and there is an order of injunction restraining the respondent no.8 from making any illegal constructions.

Mr. Ganguly, learned advocate for the respondent nos. 8&9 submits that some repairing work was done but they are tenants in respect of the property in question and they are not responsible for any unauthorized constructions.

Police have filed a report before this Court, from which it appears that the Kolkata Municipal Corporation has intimated the police authorities with regard to the stop work notice issued in respect of the said premises.

Mr. Das, learned advocate for the Kolkata Municipal Corporation has submitted a report prepared by the Assistant Engineer (C), Building Department, K.M.C., Borough-I, from which it appears that the notice under Section 400(1) of the Kolkata Municipal Corporation Act, 1980 has been served upon the person responsible on September 9, 2021. It also appears that the stop work notice has been issued. Thus, as the Corporation has already taken cognizance of the complaint of the petitioner and has proceeded as per law, nothing remains to be decided in the writ petition.

The report indicates that there are some unauthorized constructions of additional floors along with other deviations. The competent authority of the Kolkata Municipal Corporation is directed to initiate a proceeding in respect of the premises in question

and conclude the same in accordance with law upon hearing the petitioner as also the respondent nos. 8 to 11 and any other person responsible for the said constructions.

An inspection shall be made in presence of the parties. A copy of the report shall be supplied to the parties. Thereafter, a hearing shall be given to all the parties. The parties shall be allowed to submit their documents in support of their contentions. Upon conclusion of such hearing, a reasoned order shall be passed and communicated to all concerned. On the basis of what transpires at the hearing and during inspection, the Corporation shall reach the proceeding to its logical conclusion in accordance with law.

The Corporation shall be at liberty to approach the Thika Controller, Kolkata to ascertain as to whether any permission has been granted by the said authority for the alleged construction.

This Court has not gone into the merits of the claims and counter claims of the parties.

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

The writ petition is 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.)