

16.11.2021.
Court. No. 19
Sl. 1
sn

WPA 14428 of 2021

Devandra Kumar Sarawgee & Ors.
Vs.
The Kolkata Municipal Corporation & Ors.
(Through Video Conference)

Mr. Saptangshu Basu, Sr.Adv.
Ms. Mrinalini Majumder
Mr. Debangshu Dinda
... for the Petitioners

Mr. Achinta Kumar Banerjee
Mr. Mihir Kundu ..for the KMC

Mr. Jahar Datta
Mr. Bipin Ghosh ..for the State

Mr. Suman Kumar Dutt
Mr. Prasanta Naskar ..for the respdts.6-10

This writ petition has been filed challenging an installation of capsule lift by the respondent nos.6 to 10. The petitioners claim to be the co-owner of the said premises. Such claim is however denied by the respondent nos.6 to 10. According to the respondent nos. 6 to 10, the petitioners have failed to establish their title in several rounds of litigations before the civil court.

This Court neither in a position nor empowered to decide the title. However, the only point to be adjudicated in this proceeding is whether the alleged capsule lift purported to be installed by the respondent

nos.6 to 10 and the construction of the well/pit for installation of the capsule lift could be permitted without any approval from the Kolkata Municipal Corporation.

The matter was moved before the Hon'ble Vacation Bench. The vacation Bench directed the Kolkata Municipal Corporation to file a report.

Today, the report has been filed and the same is taken on record. It appears that the respondent nos. 6 to 10 made some unauthorised constructions and preparations for installation of a capsule lift. A stop work notice has been issued.

Mr. Dutt, learned advocate for the respondent nos. 6 to 10 submits that apart from the construction of the capsule lift, some repair work was going on and such repair was authorised by the Kolkata Municipal Corporation.

A gazette notification has been handed over to the Court, from which it appears that in respect of the said premises, the Corporation had informed the respondent nos.6 to 10, the kind of repairs that may be allowed without any approval from the Kolkata Municipal Corporation.

Thus such repairs as per the version of the Corporation itself may continue, but the respondent nos. 6 to 10 shall indicate in writing to the Kolkata

Municipal Corporation the nature of repairs undertaken exclusively with regard to the premises. Such repair shall not have any connection at all with the construction of the capsule lift. No construction with regard to the capsule lift shall be permitted till the Corporation decides the pending application for permission to install a lift of the respondent nos. 6 to 10 in accordance with law.

The observations made in this order shall not be construed as the decision on the right of the petitioner over the premises in question.

The order is only passed to the limited extent of construction of the capsule lift without a valid sanction or approval from the Kolkata Municipal Corporation shall not be permitted.

The pending application shall be disposed of by the competent authority in accordance with law upon hearing the respondent nos.6 to 10 as also the petitioners on the basis of the documents to be supplied by the parties, within a period of six weeks from the date of communication of this order. The claim of co-ownership of the petitioners and their right to object will also be taken into consideration on the basis of the records of the courts and other relevant documents.

A copy of the report filed in Court today be circulated amongst the learned advocates for the parties. The supplementary affidavit, which has been filed be supplied to the respective parties by the learned advocate on record for the petitioners within this week.

The writ petition is disposed of.

There will be, however, no order as to costs.

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

(Shampa Sarkar, J.)