

29.07.2021
Court No. 19
Item No.05
CP

WPA 13490 of 2019

Kaberi Bera (Maity) alias Kaberi Maity
vs.
Kolkata Municipal Corporation & ors.

(via video conference)

Mr. Tanmoy Mukherjee

.....for the petitioner.

Mr. Biswajit Mukherjee
Mrs. Sima Chakraborty

.....for the K.M.C.

Affidavit-of-Service is taken on record. Despite service none appears on behalf of the respondent No. 6.

The petitioner purchased a flat from the respondent no. 6, measuring about 714 square feet situated on the first floor (Southern Side) of the premises No. 38/2, Nabapally Main Road, Kolkata – 700104, Police Station – Haridevpur, by a registered deed of sale dated December 30, 2009. According to the petitioner, the Kolkata Municipal Corporation supplied water connection only to the respondent no. 6 and not to the other flat owners who have equal right to get a water connection from the Kolkata Municipal Corporation, on the basis of the deed of sale.

Mr. Biswajit Mukherjee, learned advocate appearing on behalf of the Kolkata Municipal Corporation, submits that only one point ferrule is given per house for supply of water and the said point has been installed by the Kolkata Municipal Corporation at the premises. If the respondent no. 6 has not allowed the petitioner to use the said point for supply of water connection, to his flat, it was a civil dispute between the parties and cannot be decided in a writ proceeding. The petitioner does not have any claim against the Kolkata Municipal Corporation as the Kolkata Municipal Corporation acted in terms of the statute and the rules.

Mr. Tanmoy Mukherjee, learned advocate appearing on behalf of the petitioner, submits that there are provisions in the Act enabling the Commissioner to take certain steps in case the supply of water does not reach each and every flat owner.

It is also seen from the records that the Kolkata Municipal Corporation has recognized the petitioner as an owner and occupier of the premises in question and is accepting tax from the petitioner. Water is a necessity and an essential commodity. Right to water is synonymous with right to life and the Corporation must ensure that the single point installed by the Corporation for the premises is used

for the benefit of all the flat owners who are tax payers. This court is not going into the legality of the issues raised at this juncture. The writ petition is only limited to the question of exploring the possibility of making a temporary arrangement for water supply to the petitioner's flat so that the petitioner may reside in the premises by enjoying a separate water connection without claiming any equity. The corporation's right to proceed with regard to the premises or against any of the occupants under the law shall also be protected.

The petitioner shall make an application to the respondent no. 4 requesting the authority or his representative to inspect the premises and pass necessary directions for compliance by the petitioner, for grant of temporary water connection, without prejudice to the rights and liabilities of the parties. If such application is made, the Executive Engineer (Water Supply Department) through his subordinate shall cause an inspection of the premises upon notice to the respondent No. 6. He shall supply the list of compliances to be done by the petitioner, including the cost of such temporary connection.

The petitioner upon compliance of the formalities and payment of costs, shall be allowed a temporary arrangement so that the day-to-day living

of the petitioner is not hampered any further, as none can live without water for a single minute.

The respondent no. 4 shall cause the inspection and issue the directions as per the order of this court within a period of four weeks from the date of communication of this order.

It is made clear that this order is not being passed as a direction to issue a permanent water supply to the petitioner. The petitioner shall not claim any equity in respect of the water connection and the right of the Kolkata Municipal Corporation to act and proceed in accordance with law shall not be affected in any way.

With the above observations, this writ petition is disposed of. There shall be no order as to costs.

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

(Shampa Sarkar, J.)