

29.09.2021
Sl. No.1
srm

**R.V.W. 119 of 2021
With
CAN 1 of 2021
Smt. Mnju Agarwal & Ors.
Vs.
Kolkata Municipal Corporation & Ors.**

Mr. Ankit Agarwala,
Mr. Dilip Kumar Mondal
...for the Petitioners.

Mr. Jahar Lal De,
Mr. Jahar Datta
...for the State-Respondents.

Mr. Alok Kumar Ghosh,
Ms. Manisha Nath
...for the Kolkata Municipal Corporation.

Mr. Nilanjan Bhattacharya,
Mr. Brajesh Jha,
Mr. Ravi Ranjan Kumar,
Mr. Saket Sharma
...for the Respondent No.7.

All the parties are represented. As such this review application is taken up for hearing.

This application has been filed for review of the order dated September 13, 2021 passed by this Court. The writ petition was disposed of on the following grounds. a) That locus of the petitioners could not accepted, b) That any protective order would amount to interfering with an order of a co-ordinate Bench and c) that the order under challenge in

the writ petition was an appealable order. Although the Court was of the opinion that there was a mis-description of the parties in the order, the court denied any relief in favour of the construction allegedly owned, occupied and enjoyed by the petitioners. Thus, the writ petition was disposed of on the ground of lack of locus, alternative remedy and also in view of a subsisting order of a learned co-ordinate Bench directing demolition and compliance.

Subsequently, the learned co-ordinate Bench clarified the position by passing an order declaring that the order passed by His Lordship directing the Kolkata Municipal Corporation to take steps in accordance with law and report compliance would not amount to being an order encouraging any illegality.

The writ petition was neither disposed of subject to clarification from his Lordship nor was it disposed of without considering the merits.

This review application has been filed for taking note of subsequent evidence discovered after disposal, which according to the learned Advocate for the applicants, will have an impact on the result of the earlier proceedings which was disposed of by this Court. One such subsequent evidence according to the applicants, is the order of His Lordship, clarifying the meaning of the expression “compliance” as

appearing in his Lordship's order. The other evidence being the addendum by which the order was corrected by the corporation.

These materials are not good grounds for review. It was the specific case of the respondents that the names of the parties were mentioned wrongly by mistake. Thus the subsequent corrigendum or addendum will not improve the case of the petitioners. Neither will the clarification given by His Lordship change the merits of the writ petition in anyway. The writ petition was disposed of for lack of locus as the petitioners are not the persons responsible for erecting the unauthorised construction as admitted in the writ petition and also because the order is otherwise an appealable order.

In my opinion, grounds for review do not exist. The order under review does not suffer from error apparent on the face of record. Neither have the applicants produced any material, which was discovered subsequent to the disposal of the writ petition and would have a bearing on the case. The Court has also not failed to exercise jurisdiction vested by law. In any event, the construction which was totally unauthorized cannot be protected by filing such applications and these are not good grounds for review. The mistake in the names has been corrected later on. There is an alternative remedy which

may be availed of by the person responsible in accordance with law.

This court has not decided the validity and correctness of the order of demolition.

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.)