

Court No. 24

19.02.2021

(Item No. 13)

(AB)

W.P.A 10098 of 2020

Sudip Bose and Others

vs

The Kolkata Municipal Corporation & Ors.

Mr. Sanjay Mukherjee

Ms. Koel Sarkar

...for the Petitioners

Mr. Bibek Jyoti Basu

Mr. Uttam Kumar De

..... For the State

Mr. Ranajit Chatterjee

Ms. Manisha Nath

..... for Kolkata Municipal Corpn.

Mr. Goutam Dey

Mr. Prateep Bera

Mrs. Arunika Ghosh

..... for private respondent No. 11

The allegation of the petitioners is that the private respondent is making unauthorized construction of a shed in the common space and wall of an apartment situated at 24B, Nakuleswar Bhattacharjee Lane, Kolkata – 700 025, P.S. Tollygunge under the Kolkata Municipal Corporation.

The petitioners made a representation before the Kolkata Municipal Corporation objecting to the aforesaid construction. The grievance of the petitioners is that their representation has not been considered by the respondent authority till date.

The learned advocate appearing on behalf of the private respondent No. 11 vociferously opposes the submissions made by the petitioners. He denies the allegations made by the petitioners in the writ petition. It has been submitted that the private

respondent purchased a car parking space in the said premises in the year 2017 by virtue of a registered deed of sale, prior to the purchase of the flats by the petitioners.

The learned advocate representing the Kolkata Municipal Corporation submits, upon instruction, that on receipt of the complaint from the petitioners the officials of the Corporation visited the premises and it was found that the mandatory area open space has been covered by constructing a shed with brick wall and fiber sheet in the ground floor of an existing four storied building, without any sanction. Doors and windows have been covered by brick walls on the ground floor. A notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 has been served and intimation has also been sent to the Tollygunge Police Station on 12th November, 2020.

The dispute with regard to the encroachment of the common spaces in the said apartment cannot be decided by the writ Court. The petitioners will be at liberty to initiate appropriate proceeding before the proper forum for redressal of their grievances, if so advised.

As regards the allegation of unauthorized construction it appears that the Kolkata Municipal Corporation has already taken steps in response to the complaint filed by the petitioners. Accordingly the

instant writ petition is disposed of by directing the Kolkata Municipal Corporation to take steps in accordance with law to deal with the unauthorized construction that has been carried on in the said premises. The proceedings with regard to the unauthorized construction shall be proceeded at the earliest and be concluded within a period of six months from the date of communication of a copy of this order.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of usual legal formalities.

(Amrita Sinha, J.)