

ORDER SHEET

WPO 80 of 2021
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SANJIT KUMAR AUDDY & ORS.
VS.
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 24th February, 2021

Ms. Sweta Gandhi Murgai, Advocate for the
petitioners.
Mr. Alak Kumar Ghosh, Mr. Arijit Dey, Advocates for K. M. C.

The Court : Affidavit of service filed in Court today is taken on record.

The Petitioners allege that the functionaries of the Kolkata Municipal Corporation are making unauthorised construction over the premises no. 112, Swinhoe Lane, Ward No.67, Police Station – Kasba, Kolkata – 700 042.

According to the petitioners, they are the co-owners of the said premises which comprises of approximately 42 cottahs. A portion of the said land has become a low lying area and water has accumulated in the said portion. It has also been submitted that around 28 cottahs of land is being dug up by the authorities of the Kolkata Municipal Corporation in the garb of beautifying the low lying land. Photographs have been annexed with the writ petition to show that the construction is being made in the said area.

The petitioners submit that no notice of making construction or beautifying the land in question was ever served upon the owners.

The petitioners have raised an objection before the Kolkata Municipal Corporation by letter dated 21st January, 2021. The petitioners allege that no steps have been taken for consideration of the said representation.

The learned Advocate representing the Kolkata Municipal Corporation submits that the petitioners do not reside in the said premises. A portion of the land is a water body and the same has become the breeding place for mosquitoes and larvae. On the request of the local residents the Corporation has taken steps for restoration of the water body under the provision of the West Bengal Inland Fisheries Act. The Corporation has not gone into the issue of ownership and is only concerned with restoration of the water body.

The petitioners refer to the photographs and mention that the construction is being made allegedly over the premises no. 164/1, Swinhoe Lane. The petitioners submit that the address of the said premises is 112, Swinhoe Lane and not 164/1, Swinhoe Lane.

It appears that there are several disputed questions of fact involved in the instant writ petition. The petitioners have already approached the Municipal Authorities for taking a decision with regard to their grievances. The said representation is pending consideration at the end of the

authorities. No useful purpose will be served by keeping the writ petition pending.

In view of the above, the appropriate authority to look into the matter, being the Director General of the Environment and Heritage Department, Kolkata Municipal Corporation is directed to consider the representation made by the petitioners on 21st January, 2021 strictly in accordance with law, after giving an opportunity of hearing to the petitioners and all other necessary parties, at the earliest, but positively within a period of four weeks from the date of communication of a copy of this order. The petitioners shall be entitled to rely upon all the documents in support of their ownership and payment of property tax in respect of the said premises at the time of hearing of their representation.

As it has been submitted that the construction is going on in the said premises at a very fast pace and the representation of the petitioners is kept pending since January, 2021, it would be appropriate to direct the functionaries of the Kolkata Municipal Corporation not to proceed with any further construction work in the said premises till a decision is taken by the aforesaid respondent for consideration of the representation made by the petitioners.

The writ petition stands disposed of.

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

(AMRITA SINHA, J.)

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