

ORDER SHEET

WPO 92 of 2021
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WELLSIDE GLOBAL PRIVATE LTD.(FORMERLY KNOWN AS VAMSCORP
(INDIA) PRIVATE LTD.) & ANR.

VS.

THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date: 25th February, 2021

Mr. S. K. Chakraborty, Mr. Mayank Kakrania,
Advocates for the petitioners.
Mr. Ranajit Chatterjee, Mr. Subhransu Panda,
Advocates for K. M. C.

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

The matter relates to the construction on the premises no.7, Ho Chi Minh Sarani, Ward no.63, Borough – VII, Kolkata – 700 071. The petitioners were carrying on construction over the said plot of land after obtaining necessary sanction from the Kolkata Municipal Corporation. There was a structure on the said plot of land which was recorded as heritage-Grade I.

The Kolkata Municipal Corporation issued a notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 on 21st September, 2017. The petitioners submit that after receiving the notice under Section

401, the petitioners did not make any further construction on the said plot of land.

The petitioners have approached the Kolkata Municipal Corporation by filing representations praying for permission to resume construction work after maintaining all the necessary formalities. Last of such representation was submitted before the Municipal Commissioner on 14th March, 2018. The petitioners submit that the Kolkata Municipal Corporation did not respond to the said representation and the construction has been held up indefinitely.

The learned Advocate appearing on behalf of the Kolkata Municipal Corporation submits, upon instruction, that there has been huge deviation from the sanctioned plan which was granted for making construction in the said premises. The petitioners have constructed a basement without obtaining any sanction. There has been marginal difference in maintaining the open spaces of the newly constructed building from the existing heritage structure on the southern side of the premises.

It appears from records that the petitioners have also submitted a proposal for regularisation of addition and alteration of the sanctioned plan which is pending at the end of the Corporation.

Be that as it may, as it appears that the petitioners have already approached the Kolkata Municipal Corporation praying for permission to resume construction after maintaining the necessary formalities and the said representation is pending consideration at the end of the Kolkata

Municipal Corporation, no useful purpose will be served by keeping the writ petition pending.

In view of the above, liberty is granted to the petitioners to file a further representation annexing all the relevant documents in support of their prayer within a period of 14 days. In the event such representation is filed separately before the respondent no.3, being the Director General (Building), Building Department and the respondent no.6, being the Director General, Project Management Unit, then the said respondents shall consider the representation of the petitioners, strictly in accordance with law, after giving an opportunity of hearing to the petitioners within a period of three months from the date of receipt of the representation. The aforesaid respondents shall pass a reasoned order and communicate the same to the parties immediately thereafter.

It is made clear that this Court has not gone into the merits of the claim of the petitioners and all points are left open to be decided by the said respondents at the time of consideration of the representation of the petitioners.

The writ petition stands disposed of.

The instruction given by the Kolkata Municipal Corporation to their learned Advocate is retained with the records.

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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