

ORDER SHEET

WPO/161/2021
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

DR. MRS. SARMILA CHANDRA

VS

THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE :

The Hon'ble JUSTICE AMRITA SINHA

Date: 13th April, 2021.

Appearance:

Mr. R. N. Chakraborty, Adv.

Ms. Amrita De, Adv.

..for the Petitioner.

Mr. Biswajit Mukherjee, Adv.

Ms. Manisha Nath, Adv.

..for KMC.

Mr. Tarique Quasimuddin, Adv.

Mr. Abbas Ibrahim Khan, Adv.

..for Respondent No.10.

Mrs. Sipra Majumdar, Adv.

Mrs. Debarati Sen (Bose), Adv.

..for the State.

The Court:- The petitioner alleges illegal and unauthorized construction in the premises No.66, Biplabi Rash Behari Bose Road, Kolkata-700001.

A representation objecting to the unauthorized construction was filed before the City Architect, Building Department, Kolkata Municipal Corporation in the year 1989 by the husband of the petitioner. A further representation was made in the year 2000. After the death of the husband of the petitioner, she through her learned advocate filed representation before the Municipal Commissioner, Kolkata Municipal Corporation in December, 2020.

The petitioner prays for a direction upon the Kolkata Municipal Corporation to conduct an inspection and upon detection of the unauthorized portion of the aforesaid premises demolish the same.

The petitioner further prays for a direction upon the Kolkata Municipal Corporation for apportionment of the share of the property taxes. The petitioner through her learned advocate made a representation before the Kolkata Municipal Corporation with a prayer for apportionment of the share of taxes since the building, except the ground floor, is in occupation of the tenants.

The learned advocate representing the private respondents submits that the cause of action of the instant writ petition arose way back in 1989. The petitioner was all alone aware of the unauthorized construction but did not take any steps against the same. According to the private respondents, the Writ Court ought not to enter into the disputes after a delay of so many years.

The learned Advocate representing Kolkata Municipal Corporation submits that the prayer of the petitioner for conducting an inspection and for detection of the unauthorized construction may be allowed. With regard to the prayer of the petitioner for apportionment of taxes it has been submitted that application in terms of Section 178(6) of the Kolkata Municipal Corporation Act, 1980 has to be filed by the owner of the premises concerned. The same cannot be made through the learned advocate.

Upon hearing the submissions made on behalf of the parties, it would be appropriate to direct the Kolkata Municipal Corporation through its concerned officer to take steps to inspect the premises No. 66, Biplabi Rash Behari Bose

Road, Kolkata-700001 and to cause an enquiry whether any unauthorized construction has been made.

The men and agent of the Kolkata Municipal Corporation shall conduct an inspection of the premises in question upon notice to the petitioner and all other necessary parties at the earliest, but positively within a period of twelve weeks from the date of communication of a copy of this order. The report of the inspection shall be communicated to the petitioner and to all other necessary parties immediately thereafter.

In the event any unauthorized construction is detected, then necessary steps shall be taken by the Kolkata Municipal Corporation to deal with such unauthorized construction, in accordance with law.

As regards the prayer of the petitioner for apportionment of taxes, leave is granted to the petitioner to make an application in terms of the provision of law. In the event such an application is made, the same shall be considered by the Kolkata Municipal Corporation in accordance with law, at the earliest.

WPO No.161 of 2021 stands disposed of.

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

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(AMRITA SINHA, J.)