

OD-2

ORDER SHEET

WPO No. 172 of 2021

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

AFROZ NAZNEEN ANWAR
Versus
THE STATE OF WEST BENGAL & ORS.

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date : 11th August, 2021.

[Via video conference]

Appearance :
Ms. Arunima Lala, Adv.
For the petitioner.

Mr. Biswajit Mukherjee, Adv.
Ms. Manisha Nath, Adv.
For K.M.C.

The Court:- In spite of service none appears on behalf of the respondent nos. 7 and 8.

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

The Assistant Engineer (Civil) Building Department filed his report with regard to the allegation of unauthorized construction. The said report is taken on record.

The petitioner alleges that the respondent nos. 7 and 8 have obtained a sanctioned plan for building on premises No. 77D, Karaya Road, Kolkata 700 019. According to the petitioner, the said sanction plan was obtained by practicing fraud and by mis-representation. The petitioner prays for cancellation of the said plan.

The next contention of the petitioner is that the respondent nos. 7 and 8 have also constructed beyond the sanction plan. It is contended that although the sanction plan was for a G+2 building, the respondents Nos. 7 and 8 have raised a G+3 building in violation of the plan and also the provisions of Rules 61 and 62 of the Kolkata Municipal Corporation Building Rules, 2009.

Mr. Mukherjee, learned Advocate appearing on behalf of the Kolkata Municipal Corporation, submits that the remedy of the petitioner with regard to the illegal sanction plan of the building lies before the authority under Section 397 of the Kolkata Municipal Corporation Act.

Having heard the contentions of the parties, liberty is given to the petitioner to approach the Kolkata Municipal Corporation by filing an appropriate application under Section 397 of the Kolkata Municipal Corporation Act.

It appears that the Kolkata Municipal Corporation had initiated a demolition proceeding. The fate of the proceeding is not known. However, the allegation of the petitioner with regard to the unauthorized and illegal construction in deviation of the plan and the building rules shall be

looked into by the Corporation and such allegation shall be reached to its logical conclusion according to the provisions of law.

The Corporation authorities shall make an inspection in presence of the parties, the authorities will afford a reasonable opportunity of hearing to the petitioner and the respondent nos.7 and 8. They are at liberty to hear such other parties and consult such documents as may be deemed necessary by them. The corporation authorities will pass a reasoned order, which they will communicate to all the parties.

The entire exercise shall be completed within four months from the date of communication of this order.

WPO No. 172 of 2021 is disposed of.

(SHAMPA SARKAR, J.)