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ORDER SHEET
WPO 252 OF 2021
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

TARAK ROY
VERSUS
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date : 26TH July, 2021.

APPEARANCE:
Mr. Ragunath Chakraborty, Adv.
Ms. Amrita De, Adv.
...for the Petitioner

Mr. Sundar Ananda Pal, Adv.
Ms. Sonali Sengupta, Adv.
Ms. Sonali Ghosh Basu, Adv.
...for the respondent No. 5 to 8

Mr. Ranajit Chatterjee, Adv.
Mr. Gopal Chandra Das, Adv.
...for the KMC

The Court : The writ petition has been filed with two allegations. First, that the sanction plan was obtained by the respondent Nos. 5 to 8 by fraudulent misrepresentation; second, that the building plan was for two storeys but the respondent Nos. 5 to 8 have constructed an additional (third) floor.

Mr. Chakraborty, learned advocate appearing for the petitioner submits that it is the bounden duty of the municipal authorities under the law, to dispose of the objection with regard to the grant of sanction plan, in terms of Section 397

of the Kolkata Municipal Corporation Act, 1980. It is further submitted by Mr. Chakraborty, that the Corporation also avoided to discharge its duties under the law, by not taking cognizance of the complaint lodged by the petitioner with regard to unauthorised construction.

Mr. Pal, learned senior advocate appearing for the respondent Nos. 5 to 8 submits that the sanction plan was issued by the corporation upon being satisfied with the title of the petitioners. He submits that the respondent Nos. 5 to 8 became entitled to build on and enjoy the property, by virtue of a registered deed of sale. He further submits that the building has been erected on the basis of sanction plan and not in violation thereof.

Mr. Chatterjee, learned advocate appearing for the Kolkata Municipal Corporation submits that the petitioner cannot ask the authority to initiate a proceeding on the allegation of unauthorized construction before the question of validity of the plan is decided.

Having heard the contentions of the respective parties, this Court is of the opinion that the competent authority of the Kolkata Municipal Corporation must dispose of the objection raised by the petitioner dated June 22, 2021 in accordance with law, upon granting a reasonable opportunity of hearing to the petitioner and/or his representative and the representatives of the respondent nos.5 to 8.

It is made clear that the authority will decide the issue on the basis of the documents produced by the parties and take a decision as to whether the building plan was rightly sanctioned or not, by passing a reasoned order. The

order shall be communicated to the parties. The entire exercise shall be completed within a period of eight weeks from the date of communication of this order.

So far the contentions of illegal construction is concerned, I do not find any complaint lodged by the petitioner, on record. The petitioner shall be at liberty to approach the appropriate authority of the Corporation by filing a proper complaint. If the same is done, the Corporation will proceed and act in accordance with law.

This Court has not gone into the merits of the claim of the petitioner.

Parties to act on the server copies of this order.

(SHAMPA SARKAR, J.)

Sbghosh