

OD-4

ORDER SHEET

WPO No. 376 of 2021

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

JAVED AKHTAR & ORS.
Versus
THE KOLKATA MUNICIPAL CORPORATION & ORS.

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

[Via video conference]

Appearance :

Mr. Utpal Majumdar, Adv.
Mr. Teesham Das, Adv.
For the petitioner.

Mr. Achintya Kumar Banerjee, Adv.
Mr. Indramouli Banerjee, Adv.
Ms. Paushali Banerjee, Adv.
For respondent nos. 1, 2,3,4 & 5.

The Court:- The petitioners allege that plan for construction of a building at 7A, Tiljala Place, Kolkata 700 017 has not been sanctioned by the Kolkata Municipal Corporation, on the ground that there was a 90 years old regular alignment of a street which could not be changed.

The petitioners by invoking the provisions of Sections 356 and 357 of the Kolkata Municipal Corporation Act approached the Municipal Commissioner with a prayer for removal of such alignment of the said

street on the ground stated in the representation dated November 21, 2019. Thereafter on various occasions such prayer for removal of the alignment was made and lastly on January 27, 2021. It is alleged by the petitioners that such street alignment was given a go-by when other buildings in the locality were allowed to be constructed. Only the petitioners have been singled out and their prayer for removal of the alignment has not been dealt with at all.

Mr. Banerjee, learned Advocate for the Kolkata Municipal Corporation, submits that the allegations are not correct. The Corporation had not taken any steps with regard to the prayer for removal of the alignment as such removal was not permissible. However, Mr. Banerjee submits that the Municipal Street Technical Committee normally reviews such cases.

I have perused Section 357 which empowers the Commissioner to define regular line of street. Section 357(6) empowers the corporation to partly or wholly cancel or modify a regular line of street after a period of ten years.

Having heard the learned Advocates for the parties, the writ petition is disposed of by directing the Municipal Commissioner or his delegatee to look into the issue and consider the grievance of the petitioners and dispose of the representations within a period of twelve weeks from the date of communication of this order. If necessary, the Commissioner and/or his delegatee may seek assistance of the Municipal

Street Technical Committee whether steps in terms of Section 357[6] of the Kolkata Municipal Corporation Act could be taken in this regard as the alleged alignment is 90 years old.

It goes without saying that before taking any decision, the petitioners shall be given an opportunity of hearing. Thereafter, a reasoned order will be passed which will be communicated to the petitioners.

(SHAMPA SARKAR, J.)

snn.