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WPO 295 of 2016
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SWASTIK PROJECTS PRIVATE LIMITED & ANR.
VS
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 20th January, 2021.

Appearance:

Mr. Ashoke Kumar Banerjee, Sr. Adv.

Mr. Barin Banerjee, Adv.

Mr. Swapan Kr. Debnath, Adv.

...for the K.M.C

Mr. Alok Ghosh, Adv.

Mr. N. Sengupta, Adv.

The Court : The writ petitioner is the owner of premises 46A/1, Biplabi Barin Ghosh Sarani, P.S. Maniktola, Kolkata – 700054. On 13th April, 2010 the petitioner obtained a sanction building plan for a building (ground+7) upon deposit of the sanction fees with the respondent Corporation. Thereafter, on 22nd September, 2011 the petitioner submitted another building plan for a building (ground + 11) storied. Accordingly, the respondent Corporation issued a demand notice for payment of the sanction fees but the petitioner did not pay such demand. Thereafter, another proposal for a building plan was submitted by the petitioner on 15th December, 2014 with the Corporation for sanction of the same. Subsequently, the Corporation issued a fresh demand on 1st March, 2016 for payment of the sanction fees of Rs. 1,91,88,569/-. The petitioner assails the demand notice dated 1st March, 2016, in this petition.

The primary contention of the petitioner is that the impugned demand ought to be set aside on the ground that the petitioner had applied for a revised sanction plan and not a fresh building plan. It is further submitted on behalf of the petitioner that 50% adjustment fees as per the table 14 has not been granted to the petitioner. It is also submitted on behalf of the petitioner that the petitioner is entitled to a deduction of 50% of the the initial sanctioned amount.

Mr. Ashok Kumar Banerjee, learned Senior Counsel appears on behalf of the respondent Corporation and submits that the contention of the petitioners is ex facie unsustainable in law. He submits that the first sanction building plan was obtained on 13th April, 2010. Subsequently, a second sanction plan for an 11 storied building was filed. Thereafter, on 15th December, 2014 the petitioner submitted a third building plan. He submits that no construction has yet been commenced by the petitioner. He submits that all the three building plans are totally independent, separate and distinct.

I have considered the pleadings and the submissions of the parties. I find that the petitioner had obtained a building plan as far back as 2010 and there is no evidence to suggest that the petitioner had initiated any construction even a decade later. I am of the view that the entire case of the petitioner of the plans having been submitted in 2011 and 2014 being revised plans is totally baseless and an afterthought.

It is also alleged on behalf of the Corporation that the petitioner has recently applied for sanction of a fresh building plan for B+G+23 storied building which is pending before the Corporation. The petitioner has not

started any construction work in the interregnum. I am of the view that until a fresh sanction is obtained by the petitioner from the Municipal Commissioner by repeating the procedure as laid down in the Kolkata Municipal Corporation Act, 1980 for the purpose of obtaining a fresh sanction plan, the petitioner is not entitled to reap the benefits of the building permit and the plan which it earlier obtained. In this context, the language of Section 398 (3) of the Kolkata Municipal Corporation Act, 1980 is clear and explicit. I am also of the view that the building plans applied for by the petitioner are separate and distinct. I am also of the view that there is no need for adjustments of any sanction fees which has been paid by the petitioner in respect of the first building plan since the petitioner has only itself to blame for not carrying out any construction work whatsoever.

Accordingly, I find that the entire grievance of the petitioner is baseless and the petitioner has no equity in its favour. I also find no reason to interfere with the impugned demand. Moreover, the entire case of a revised building plan by the petitioner is also not tenable in law since the sanction plan initially granted in favour of the petitioner had lapsed and the petitioner has failed to make any construction whatsoever. Accordingly, I find no merit in the writ petition. WP 295 of 2016 is dismissed. Interim orders, if any, stands vacated.

(RAVI KRISHAN KAPUR, J.)