

OD-3

ORDER SHEET

WPO/462/2021

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

RABINDRA COOPERATIVE HOUSING SOCIETY LIMITED AND ANR.
Versus
KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : 15th November, 2021.

[Via Video Conference]

Appearance:

Mr. Chayan Gupta, Adv.

Mr. Rittick Chowdhury, Adv.

Mr. Roshan Pathak, Adv.

Mr. Pourush Bandyopadhyay, Adv.

...for the petitioners

Md. Zubair Alam, Adv.

...for respondent no.7

Mr. Debjit Mukherjee, Adv.

Ms. Susmita Chatterjee, Adv.

...for the State

Mr. Alok Kumar Ghosh, Adv.

Mr. Gopal Chandra Das, Adv.

Mr. Anujit Mukherjee, Adv.

...for KMC

The Court :- Despite service, none appears on behalf of the added respondent no.4.

No one appears on behalf of the Reliance Infratel Limited.

Despite service none appears on behalf of the respondent no.5 as also Reliance Infratel Limited that is the owner of the mobile tower. The writ petition was filed challenging inaction on the part of the Kolkata Municipal Corporation in disposing of the complaint of the petitioners with regard to the installation of the mobile tower without permission. A report was filed by the Kolkata Municipal Corporation on the last occasion. The Court was not satisfied with the report and a fresh report was called for.

Today Mr. Ghosh, learned advocate appears on behalf of the Kolkata Municipal Corporation and files a report from which it appears that the Kolkata Municipal Corporation did not give any permission for installation of the mobile tower. A notification of the department of municipal affairs has been cited by the petitioners in order to show that a sanction has to be taken from the urban local bodies before such a tower can be installed. The mobile tower company has also not appeared before this Court despite service of notice and has not claimed any right to the said tower. As the Kolkata Municipal Corporation has already submitted that the mobile tower has not been authorized by the Corporation, the writ petition is disposed of with a direction upon the Municipal Corporation to act in accordance with law upon giving an opportunity of hearing to the owner of the premises as also the mobile tower company. A reasoned order shall be passed and communicated to all concerned.

It is needless to mention that prior to such hearing, an inspection shall be made by the Corporation in presence of all the parties. The report of such inspection shall be handed over to the parties and thereafter a decision will be taken in accordance with law and by following principle of natural justice.

The report filed by the police authority is kept on record.

(SHAMPA SARKAR, J)

snn.