

ORDER SHEET

WPO/449/2020
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

M/S. SUMANTA SUSANTA OVERSEAS PVT. LTD. & ANR.

VS

THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date: 18th March, 2021.

Appearance:

Mr. Abhrajit Mitra, Sr. Adv.
Mr. Soumya Majumder, Adv.
Mr. Sumanta Biswas, Adv.
Mr. Sarvapriya Mukherjee, Adv.
Ms. Rekha Ghosh, Adv.
Mr. Bikash Shaw, Adv.
..for the Petitioners.

Mrs. Sipra Majumdar, Adv.
Mr. Sougata Mitra, Adv.
..for the State.

Mr. Ranajit Chatterjee, Adv.
Ms. Manisha Nath, Adv.
..for KMC.
Mr. Kallol Saha, Adv.
Mr. Debmallo Ghoshal, Adv.
...for Respondent nos.8 & 9.

The Court:- None appears on behalf of the respondent nos. 7 and 10 despite service.

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

The petitioners allege illegal and unauthorized construction of a mezzanine floor by the private respondents in the ground floor of premises no.5, Lindsay Street, P.S.-New Market, Kolkata-700087, Ward No.63, Borough-VII under Kolkata Municipal Corporation.

The grievance of the petitioners is that even though representation was made by and on behalf of the petitioners before the Kolkata Municipal Corporation none of them has been taken into consideration by the said authority till date.

The learned advocate appearing on behalf of the private respondents denies the allegation of making unauthorized construction in the said premises.

The learned advocate representing the Kolkata Municipal Corporation submits, upon instructions, that on receipt of the complaint from the petitioners a stop work notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 has been served upon the persons responsible for making unauthorized construction on 22nd December, 2020. The matter has also been informed to the Officer-in-Charge, New Market Police Station on 22nd December, 2020 for taking necessary action.

Members of the Kolkata Municipal Corporation, at the time of inspection noticed that the persons responsible have constructed a mezzanine floor in between ground and first floor of the said premises.

It appears from the records that though the Kolkata Municipal Corporation issued a stop work notice but thereafter did not take any further steps in the matter. Representation of the petitioners alleging illegal and unauthorized construction remains pending at the end of the Kolkata Municipal Corporation.

In view of the above, the instant writ petition is disposed of by directing the respondent no. 3 being the Commissioner, Kolkata Municipal Corporation to take necessary steps to consider the representation made by the petitioners on 11th December, 2020 annexed at page 49 of the writ petition, strictly in accordance with law, after giving an opportunity of hearing to the petitioners as well as all other necessary parties, at an earliest, but positively within a period of twelve weeks from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to all the parties immediately thereafter.

In the event the aforesaid respondent is of the considered opinion that there has been an illegal construction in the said premises, then necessary steps shall be taken in accordance with law to deal with such unauthorized construction at the earliest.

The aforesaid respondent shall restrict the consideration only with regard to unauthorized construction only and shall not enter into and adjudicate any private civil dispute amongst the parties.

It is made clear that this Court has not entered into the merits of the claim made by the petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

Since the writ petition is being disposed of without calling for any affidavit, allegations made in the writ petition are deemed not to have been admitted by the respondents.

As it appears that the Kolkata Municipal Corporation has already issued a stop work notice to the person responsible for making construction, no further construction in the said premises shall be made till a decision is taken by the aforesaid respondent upon consideration of the representation of the petitioners.

The petitioners are directed to forward a copy of the representation dated 11th December, 2020 to the aforesaid respondent at the time of communicating the order of the Court.

Instruction given by the Kolkata Municipal Corporation to their learned advocate is retained with record.

Urgent certified photocopy of this order, if applied for, be supplied to the parties or their advocates on record expeditiously, on compliance of usual legal formalities.

(AMRITA SINHA, J.)