

OD-2

ORDER SHEET

WPO/1085/2021

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

HO CHI MINH SARANI SRISHTI WELFARE ASSOCIATION & ANR.
Versus
THE STATE OF WEST BENGAL AND ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : 17th November, 2021.

[Via Video Conference]

Appearance:

Mr. Saptangsu Basu, Sr. Adv.

Mr. Siddhartha Lahiri, Adv.

Mr. Ankit Agarwal, Adv.

Ms. Alotriya Mukherjee, Adv.

Ms. M. Majumdar, Adv.

For the petitioners.

Mr. Alok Kumar Ghosh, Adv.

Mr. Gopal Chandra Das, Adv.

For the K.M.C.

Mr. Kallol Saha, Adv.

Mr. Tanoy Chakraborty, Adv.

For the respondent no. 11.

Mr. Sujit Banerjee, Adv.

For the respondent no.12.

Mr. T.M. Siddique, Adv.

Mr. Nilotpal Chatterjee, Adv.

For the State.

The Court :- The petitioners have alleged illegal and unauthorized construction by the respondent nos. 11 to 14. It has been specifically stated that some illegal construction has been made on premises No. 12,

Ho-Chi-Minh Sarani in Ward No. 63, Borough No. VII of the Kolkata Municipal Corporation. On the last occasion a co-ordinate Bench had directed that the Corporation must cause an inspection of the premises.

Mr. Ghosh, learned Advocate appearing for the Kolkata Municipal Corporation, has submitted a report from which it appears that there are some unauthorized construction.

Learned Advocates for the developer as also one of the co-owners who are respondents in the proceedings, appear before this Court and submit that they have already approached the Kolkata Municipal Corporation for withdrawal of the stop work notice on their undertaking that the unauthorized portion which has been constructed shall be demolished. Such letter written to the Executive Engineer, Building Department is taken on record.

The Corporation has already issued a stop work notice upon finding some unauthorized construction.

In view of the rival contentions of the parties, the writ petition is disposed of with a direction upon the Corporation to complete the proceedings in accordance with law, upon taking into consideration the submissions made by the respondent nos. 11 and 12 and also the findings in the inspection report.

In the opinion of the Court as there are, prima facie, findings with regard to the unauthorized construction, which the promoter is willing to demolish, a fresh inspection shall be made in the presence of the parties. The authorized representative of the Corporation shall indicate the

portions, which are required to be demolished, and if such demolition is carried out by the respondent nos. 11 and 12, the stop work notice shall be withdrawn and thereafter construction shall be allowed strictly in accordance with the plan. However, if there are any further disputes, the same shall be adjudicated by the appropriate authority of the Corporation. A reasoned order shall be passed and communicated to all the parties. On the basis of such hearing a final decision shall be taken and the Corporation may proceed in accordance with law.

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

(SHAMPA SARKAR, J)

snn.