

OD-4

ORDER SHEET

WPO No. 1214 of 2021

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

MADHUMITA PATRA
VERSUS
KOLKATA MUNICIPAL CORPORATION & OTHERS

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : 1st December, 2021.

[Via Video Conference]

Appearance:

Mr. Arif Ali, Adv.

Mr. Bikash Kumar Ray, Adv.

For the petitioner.

Mr. Ranajit Chatterjee, Adv.

Mr. Dwijadas Chakraborty, Adv.

For the K.M.C.

Mr. Debjit Mukherjee, Adv.

Mrs. Susmita Chatterjee, Adv.

For the State.

The Court:- In spite of service, none appears on behalf of the respondent nos. 12, 13, and 14.

The petitioner has alleged unauthorized construction by the respondent nos. 12 to 14 on premises No. 11 and 11/1, Topsia Road (South) in Ward-59, Borough-VII, Kolkata 700046. According to the

petitioner, a five storeyed building is being constructed without any sanction plan, upon filling up of a pond.

Mr. Chatterjee, learned Advocate appearing on behalf of the Corporation, submits a report prepared by the competent authority. It appears that premises No. 11 is a single storied building, but no construction was going on at the time of construction. On premises No. 11/1 Topsia Road (South), a five storeyed building is being constructed without any sanction plan. A stop work notice has been issued.

Having considered the rival contentions of the parties, this Court is of the opinion that as the Kolkata Municipal Corporation has already issued a 'stop work' notice and had taken a decision to proceed with the provisions under the law, the writ petition is disposed of with a direction upon the Corporation to complete the proceedings in accordance with law upon giving an opportunity of hearing to both the parties with regard to the alleged construction.

An inspection of the premises shall be held upon notice to all the parties including the respondent nos. 12 to 14. The notice shall be sent to the address mentioned in the writ petition as also affixed at a conspicuous place on the premises where the construction is going on. This shall be treated as 'good service'. The report of the inspection shall be given to the parties. The parties shall be allowed to respond to such report. A reasoned order shall be passed and communicated to all the

parties. On the basis of a hearing, a final decision shall be taken and the Corporation may thereafter proceed in accordance with law.

The competent authority of the Kolkata Municipal Corporation shall deal with the prayer for restoration of such water bodies under the provisions of West Bengal Inland Fisheries Act, 1984 if empowered under the law and separate proceedings shall be drawn up by the competent authority of the Corporation in this regard. Necessary orders will be passed upon hearing of the stakeholders including the petitioner and the respondent nos. 12 to 14.

This Court has not gone into the merits of the claims and counter claims of the parties.

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

The report filed by the Corporation is taken on record which there are definite findings of an unauthorized construction.

As the Corporation has already requested the police authority to ensure that no further construction takes place, the police authority shall act and proceed in accordance with law. With regard to the allegation of filling up of a pond and the prayer for restoration thereof, the competent authority of the Department of Fisheries shall initiate a proceeding with regard to the said complaint which shall be disposed of in accordance with law.

The state respondents will also take steps with regard to the allegation upon filling up of a pond.

[SHAMPA SARKAR, J.]

snn.