

18.02.2022
Sl. No.12
srm

W.P.A. No. 59 of 2022
With
CAN 1 of 2022
Reja Ali & Ors.
Vs.
Kolkata Municipal Corporation & Ors.

Mr. Samim Ahmed,
Mr. Arka Maiti,
Ms. Saloni Bhattacharya,
Mr. Gulsanwara Pervin
...for the Petitioners.

Mr. Subhrangsu Panda,
Ms. Ina Bhattacharyya
...for the KMC.

Mr. Ranajit Chatterjee
...for the Respondent No.5.

Mr. Avirup Chatterjee
...for the Applicant.

Re : CAN 1 of 2022

This is an application filed by one Reshma Ismat, who claims to have a substantial interest in the property and in the proceedings before this Court, for her addition as a party in the proceeding.

Without going into the title of the said applicant, this Court is of the opinion that the prayer for addition of party be allowed.

Let Reshma Ismat be added as the respondent No.6 in the writ petition.

CAN 1 of 2022 is allowed and disposed of accordingly.

The learned Advocate-on-record for the petitioners is directed to incorporate the name of the applicant in the cause title of the writ petition as the respondent No. 6.

Re : WPA 59 of 2022

Affidavit of service is taken on record.

The petitioners allege that some unauthorised construction has been going on at Premises No.2H, Radha Gobindo Saha Lane, Ward No.64, Police Station-Karaya, Kolkata – 700017, under the Kolkata Municipal Corporation. The allegations are against the respondent No.5.

The respondent No.6, who has been added by the order of this Court, claims to have a substantial interest in the property. This Court has not decided the question of title of the respondent No.6 but has added the respondent No.6 in the proceeding in view of the fact that the respondent No.6 claims to have some connection with the lis.

The allegations are that some floors have been constructed illegally without obtaining a sanction from the Kolkata Municipal Corporation and also without leaving the mandatory side space as per the Rules.

Mr. Chatterjee, learned Advocate appearing on behalf of the respondent No.5, vehemently opposes the contention of Mr. Ahmed, learned Advocate appearing on behalf of the

petitioners, and submits that the construction has been made as per the sanction plan. Some minor deviations were detected and the Corporation also issued a notice of hearing. Mr. Chatterjee submits that the writ petition is an abuse of the process of court and has been filed for extortion of money.

The Corporation submits before this Court that in view of the detection of some encroachment into the mandatory open spaces in front of the building, notices have been issued to the respondent No.5 under Section 401(1) of the Kolkata Municipal Corporation Act, 1980.

It appears from the record, produced before this Court, that the Kolkata Municipal Corporation has already issued a stop work notice. It also appears that the police authorities have also been informed by the Corporation that a stop work notice has been issued and the same must be complied with.

Under such circumstances, as the Corporation has already taken the initial step on the basis of the complaint of the petitioners, the competent authority of the Kolkata Municipal Corporation shall proceed in the manner stated hereinbelow:

- (a) The competent authority of the Kolkata Municipal Corporation shall cause an inspection of the premises in

question in the presence of the interested parties including the petitioners and the respondent Nos.5 and 6 in order to ascertain whether there has been any unauthorised construction and also to ascertain the extent and nature of the unauthorised construction, if any, within three weeks from the date.

- (b) A copy of the inspection report shall be handed over to the respective parties.
- (c) The petitioners as also the respondent Nos.5 and 6 shall be given a hearing.
- (d) The interested persons shall be allowed to file their written versions and adduce oral and documentary evidence in support of their respective claims at the time of hearing.
- (e) A reasoned order shall be passed and communicated to all concerned.
- (f) Needless to mention, that the entire proceedings, so initiated, shall be reached to its logical conclusion.
- (g) If construction is continuing, then interim measures shall be taken.

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

This Court has not gone into the merits of the claims and counterclaims of the parties and all points will be decided by the Kolkata Municipal Corporation.

This writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)