

12.4.2022
Court No. 19
Item No. 6
sn

WPA 102 of 2021

Rahul Kumar Singh
Vs.
The State of West Bengal & Ors.

Mr. Asim Hati
Mr. Sanjib Mitra
Ms. Nandini Sharma
...for the petitioner

Mr. S.K. Mitra
Mr. Mirza Kamruddin ..for the State

Mr. S. Panda
Ms. Rima Das ..for the KMC

This writ petition has been filed alleging some unauthorized construction by the respondent no.5 in premises no. 8A/1, Satchashipara Road, Kolkata 700 002. Service upon the respondent no.5 has been duly effected.

Mr. Sinha, learned advocate submits that the respondent no.5 has engaged another learned advocate to appear in the matter, although, Mr. Sinha is appearing on behalf of the respondent no.5 in another writ petition.

This Court does not think it necessary to detain the writ petition for further deliberation, in view of the report filed by the Kolkata Municipal Corporation. In any event, no adverse order against the respondent no.5 is being passed and the matter is relegated to the Corporation, for final adjudication

of the dispute upon grant of adequate opportunity to the said respondent.

The Kolkata Municipal Corporation through its Assistant Engineer (c) Building Department, Borough-I has filed a short report indicating that unauthorized construction of an R.C.C. slab supported by a brick wall at the ground floor covering portions of rear and side open spaces had been detected. In order to stop further progress of such unauthorized construction, a notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 has been served upon the person responsible. An intimation has also been sent to the police. As the Kolkata Municipal Corporation has, prima facie, found some unauthorized construction and steps have already been taken, no useful purpose will be served in keeping the writ petition pending. The same is disposed of with a direction upon the competent authority of the Kolkata Municipal Corporation to act and proceed in accordance with law.

As there is nothing on record to show that an inspection was held in presence of the parties and a copy of the inspection report was handed over to the respective parties, this Court directs that although the matter is pending hearing before the Special Officer(Building), further inspection of the premises

shall be held in presence of the parties. The report shall be supplied to the parties. The report shall contain the nature, character and extent of unauthorized construction. The parties shall be entitled to respond to such report and file their written versions before the Special Officer (Building), before whom the demolition case is pending. The parties shall be allowed to appear before the Special Officer (Building) and make their submissions as also rely upon oral and documentary evidence. After the above exercise is completed, the Special Officer (Building) shall conclude the proceeding, and reach the same to its logical conclusion, by passing a reasoned order. The order shall be communicated.

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

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the learned advocate's communication.

(Shampa Sarkar, J.)