

10.03.2022
Sl. No.13
srm

W.P.A. No. 1150 of 2022

Israr Ahmed

Versus

The State of West Bengal & Ors.

Mr. Jaydeepb Biswas,
Mr. Soumyadeep Das

...for the Petitioner.

Mr. Sudipto Panda,
Mr. Sajal Kumar Pandit

...for the State-respondents.

Mr. Srijan Nayak,
Ms. Pusali Banerjee

...for the Kolkata Municipal Corporation.

Mr. Sabyasachi Bhattacharjee,
Ms. Sanjida Sultana,
Mr. Zeeshan Ahmed Tarafdar

...for the Respondent No.11.

Affidavit of service is taken on record.

The petitioner has alleged that the respondent No.11 has converted some portions of Premises No.3/1A, Gobra Road, Police Station-Beniapukur, Kolkata-700014 within the jurisdiction of Ward No.59, Borugh-VII, of Kolkata Municipal Corporation for commercial use without taking appropriate permission from the Corporation and without changing the user of the said premises. Originally the entire premises was sanctioned as a residential building. After

some time, the respondent No.11 converted major portions of the building for commercial use, illegally.

Mr. Bhattacharjee, learned Advocate appearing on behalf of the respondent No.11, submits that the conversion of the ground floor of the building for commercial use was made sometime in 2004. The respondent No.11 has come in possession on the ground floor sometime in 2021. Since 2004, the ground floor has been treated as a commercial area by the Kolkata Municipal Corporation.

Admittedly, the petitioner has made several representations before the Corporation, which have not been disposed of.

Having considered the rival contentions of the parties, this Court is of the opinion that the competent authority of the Kolkata Municipal Corporation must be directed to inspect the premises in the presence of the petitioner, the respondent No.11 and other persons, who are interested and are residing in the said premises, in order to ascertain whether there has been any conversion of the user of the ground floor of the premises from residential to commercial without permission.

The Corporation will prepare a report along with a sketch map and handover the same to the respective parties. The parties shall be entitled to file written

conversions/objections to the said report before the competent authority and, thereafter, the entire issue shall be disposed of in accordance with law upon granting an opportunity of being heard to all the parties. A reasoned order shall be passed and communicated to all concerned. If it is found that the user of the ground of the building has been converted by the Corporation, the same shall be intimated to the parties and if it is found that the user of the ground floor of the building to commercial use had been changed illegally, then the Corporation shall act and proceed in accordance with law and pass necessary orders in accordance with the rules.

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 are left open for decision by the 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.)