

28.03.2022
Court No. 19
Item no.19
CP

W.P.A. No. 1427 of 2022

Sri Nepal Sardar
Versus
The State of West Bengal & Ors.

Mr. Nitai Chandra Saha
Mr. Abhijit Chandra Majumder
...for the petitioner.

Mr. Debjit Mukherjee
Ms. Dipanwita Ganguly
...for the K.M.C.

The petitioner alleges that the Kolkata Municipal Corporation (hereinafter referred to as 'the Corporation'), has failed and neglected to pass any orders with regard to the prayer of the petitioner for grant of sanction of the building plan, which had been deposited with the Corporation sometime ago.

It is submitted that after initial inspection, the officials of the Corporation had filed a report before the higher authorities, but the higher authorities did not take any steps in this regard. Hence, the writ petition has been filed, praying for necessary orders upon the Corporation. The petitioner contends that there are two existing tenants in the rear portion of the building. In view of such tenancy, the plan has been prepared with larger floor area ratio, which must be sanctioned on the basis of the inspection.

Mr. Mukherjee, learned advocate appearing on behalf of the Corporation, submits that the Executive Engineer (Building), Borough No. – XVI of the Corporation held an inspection and came to the finding that the prayer of the petitioner was not tenable in law, as the existence of the tenants was not found.

As the disputes are with regard to the facts, this court cannot decide the issue. The Executive Engineer (Building), Borough No. – XVI of the Corporation is directed to treat the writ petition as a representation and dispose of the same upon hearing the petitioner and/or the petitioner's representatives and upon consideration of the records as also the inspection reports that may have been prepared in this regard.

The court has not gone into the merit of the claims and counter-claims of the parties and the issues shall be decided by the competent authority, independently and in accordance with law.

A reasoned order shall be passed and communicated to the parties.

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

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)