

03.03.2022  
Court No. 19  
Item no.33  
CP

WPA 2999 of 2022  
with  
CAN 1 of 2022

Gautam Roy  
Vs.  
Kolkata Municipal Corporation & ors.

Md. Sarwar Jahan  
Mr. Moidul Islam Kayal  
Mr. Binay Shaw

.....for the petitioner.

Mr. Sanjoy Bose  
Mr. P. B. Mallick

....for the respondent no. 7.

Mr. Gourav Das

.....for the respondent no. 8.

Mr. Alak Kumar Ghosh  
Mr. G. C. Das

...for the K.M.C.

Liberty is granted to the applicant to correct the cause title of the application being CAN 1 of 2022 with regard to the description of the application under Section 340 read with Section 195(1)(b ) of the Code of Criminal Procedure.

Let affidavit-in-opposition be filed within six weeks from date. Reply thereto, if any, be filed within two weeks thereafter. Liberty to mention.

CAN I of 2022 be de-tagged and be maintained in a separate file.

**WPA 2999 of 2022**

The writ petition being WPA 2999 of 2022, has been filed for a direction upon the respondent nos. 1 to 5 to cancel and set aside the sanction plan granted to the respondent no. 7 dated December 3, 2021.

It appears that the petitioner pursuant to a liberty granted by the Hon'ble Division Bench filed an application before the Director General (Building), Kolkata Municipal Corporation dated February 14, 2022 for cancellation of the plan. The petitioner submits that the said Director General (Building) has failed and neglected to initiate proceedings for cancellation of the plan, hence the writ petition has been filed.

The contents of the said application do not reflect that the ingredients of Section 397 of the Kolkata Municipal Corporation Act, 1980 are pleaded in the same. The application is vague and without material particulars. There are omnibus allegations with regard to the plan, without any supporting facts. On the basis of such an application, the writ court cannot pass the order prayed for by the writ petitioner.

The petitioner was granted liberty by the Hon'ble Division Bench to apply for cancellation of the sanction plan, if the law permitted. The law prescribes the existence of certain situations under

which a sanction plan may be cancelled. Necessary pleadings of fraud and material misrepresentation are absent. Moreover, the application has been made before a wrong authority, which is another defect.

Hence, the writ petition is dismissed. There shall be no order as to costs.

The contention of Mr. Das, learned advocate appearing on behalf of the respondent no. 8 is not relevant at this stage, in view of the fact that Mr. Das's client, despite liberty granted by the Hon'ble Division Bench, has not yet, approached the corporation.

The petitioner is at liberty to take steps as permitted by law and by the Hon'ble Division Bench under Section 397 of the Kolkata Municipal Corporation Act.

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

**(Shampa Sarkar, J.)**