

List dt.6.6.22
Item No. 214
21.06.2022
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 2624 of 2020

**Santanu Biswas & Anr.
-versus
The State of West Bengal & Ors.**

**Mr. Dipanjan Datta,
Mr. Atanu Basu,
Ms. Rituparna Saha.
...For the Petitioners.**

**Mr. Rajdeep Bhattacharya.
...For the Respondent No.9.**

Affidavit-of-service filed in Court today is taken on record.

None appears on behalf of the Kolkata Municipal Corporation in spite of service.

The petitioner alleges that the common space of the premises at 5, Nagendra Narayan Dutta Road, Police Station- Netaji Nagar, Kolkata-700040 is being used illegally for parking cars.

The petitioner filed a representation before the Kolkata Municipal Corporation on 31st August, 2019 and alleges that the same has not been considered till date.

The petitioner however, submits that after filing of the writ petition, the men and agents of the Kolkata

Municipal Corporation visited the site and inspected the disputed area but the inspection report has not been forwarded to the petitioner.

Learned advocate appearing for the private respondent no. 9 submits that only temporary structure has been made for parking the cars in the said area.

It has been submitted that the petitioner was a signatory to the resolution adopted by the flat owners' association of the said apartment where decision was taken for using the common area as car parking space. The aforesaid contention of the private respondents has been denied by the petitioner.

As it appears from the submissions made on behalf of both the parties and from the documents annexed to the writ petition that the representation of the petitioner praying for demolition of the illegal construction on the common space in the ground floor of the premises in question is pending consideration at the end of the Kolkata Municipal Corporation, accordingly, the instant writ petition is disposed of by directing the Executive Engineer of the concerned Borough to make a spot inspection and to take a decision with regard to the representation filed by the petitioner.

The spot inspection shall be conducted upon prior notice to all the parties. The Kolkata Municipal Corporation shall thereafter take a decision in the matter strictly in accordance with law, at the earliest, but positively within a period of twelve weeks from the date of communication of a copy of this order.

The reasoned order shall be passed by the Corporation and intimated to the parties immediately thereafter.

In the event the Corporation is of the opinion that there is any illegal construction in the premises in question, then necessary steps shall be taken by the Corporation to demolish such illegal and unauthorized construction strictly in accordance with law.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)