

Item No. 108

19.09.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 4285 of 2022

Smt. Nanda Guha & Ors.

v.

The Kolkata Municipal Corporation & Ors.

Mr. Amalesh Roy
Ms. Mousumi Bhowal
Mr. A. Bhattacharya
... for the petitioners.

Mr. Alok Kumar Ghosh
Mr. Gopal Chandra Das
... for the KMC.

The petitioners are aggrieved by the order dated December 21, 2011 passed by the Assistant Engineer (Civil), Chief Valuer and Surveyor and the Assistant Collector (South-Tolly Tax Department), Kolkata Municipal Corporation allegedly in compliance of the direction passed by this Court on September 20, 2021 in WPA 8019 of 2020.

The Court directed the above authorities to hold an inspection and to decide as to whether the portion of the land at Premises No. 89F, Prince Golam Hossain Shah Road, Ward No. 93, Borough-X which was originally Jheel exists or not or has it been gradually filled up by natural process and has become a part of the land.

The Court further directed the authorities to decide whether the land can be demarcated exclusively

as land to be used for building and rebuilding on account of the change of user .

The aforesaid authorities conducted a spot inspection on December 11, 2021 when it was found that the property in question is bounded by very low height boundary wall which is almost in ruined conditions. The area within the boundary wall is mostly covered with jungles, bushes and garbage etc. Rear portion of the property is at a comparatively low level than the front portion, but no water is found on that low level portion.

Despite the above observation, the authorities failed to come to a conclusion as to whether the Jheel still exists or not or has been gradually filled up by natural process and has become a part of the land. The aforesaid authorities referred the matter to the Director General, Environment & Heritage Department of Kolkata Municipal Corporation.

Be it recorded that the annual valuation of the property in question shot up from Rs. 1,250/- to 2,50,000/- only. The reason for such abrupt hike is not known to the petitioner.

It appears from the order impugned that the authorities are yet to conclude the proceeding and to take a decision in terms of the order passed by this Court on September 20, 2021.

In view of the above, relying upon the reference that has been made by the aforesaid authorities, the Director General, Environment & Heritage Department being the respondent no. 5 herein is directed to pass a reasoned order on the basis of the inspection report that has been prepared by the Assistant Engineer (Civil),

Chief Valuer and Surveyor and the Assistant Collector (South-Tolly Tax Department).

A decision shall be taken up by the aforesaid respondent at the earliest, but positively within a period of eight weeks from the date of communication of a copy of this order.

The aforesaid respondent shall communicate the reasoned order to the petitioners immediately thereafter.

In the event, the Director General is of the opinion that a further spot inspection is required, then the same shall be conducted upon prior notice to the petitioner and in the presence of the Officer-in-Charge, Jadavpur Police Station.

The respondent no. 9 i.e. the Officer-in-Charge, Jadavpur Police Station is directed to render all necessary help and assistance to the men and agents of the Kolkata Municipal Corporation at the time of spot inspection, if sought for.

The writ petition stands disposed of.

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

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)