

S/L 23
11.05.2022
Court. No. 19
GB

WPA 4333 of 2022

Smt. Fulmoni Sardar
VS
The State of West Bengal & Ors.

Mr. Nitai Ch. Saha,
Mr. Abhijit Ch. Majumder.
...for the Petitioner.

Mr. Gourav Das,
Mr. Rajaram Banerjee.
...for the State.

Mr. Tapan Coomaar Dey,
Mr. Debasish Kar.
...for the K.M.C.

Affidavits-of-service filed in Court today, be kept with the record.

The petitioner is aggrieved by the notice dated March 2, 2022, issued by the Executive Engineer (C) Building/Br XVI. According to the petitioner, the notice has been issued its contravention of law and without ascertaining the factual basis of such allegation. It is submitted that no construction has been done and the existing construction is 50 years old.

The petitioner is directed to attend the proceedings to be initiated by the Kolkata Municipal Corporation in accordance with law.

On the next date of hearing before the Executive Engineer (Building), Borough-XVI, Kolkata Municipal Corporation, the petitioner shall be entitled to pray for inspection of the premises in question in the presence of the petitioner, the tenants and other occupants.

Such inspection shall be made for determining the age of the building, and whether the alleged construction has been made in deviation of the plan and rules. A report of such inspection shall be prepared and handed over to the petitioner and the other parties, who shall attend the inspection.

The report shall specifically state whether there has been any recent construction. If the Corporation is unable to determine the age of the construction, the Corporation shall be at liberty to take the help of expert in this regard. Costs of such expert shall be borne by the petitioner.

The parties shall be at liberty to file their written version/objection to the inspection report. Thereafter, the matter shall be heard and disposed of in accordance with law upon consideration of the rival contentions of the parties. A reasoned order shall be passed and communicated to all concerned. The contention of the writ petitioner shall be decided in accordance with law.

The petitioners are also at liberty to pray for regularization in accordance with law.

Needless to mention, the proceedings shall reach to its logical conclusion in accordance with law. The entire exercise shall be completed within a period of four months from date of communication of this order.

The police report is taken on record. It appears that the police authorities were requested by the Assistant Engineer (C), Kolkata Municipal Corporation to keep a close vigil, so that unauthorized construction does not take place. The police authorities have maintained the vigil.

The Court has not gone into the merits of the claims and counter-claims of the parties.

This order shall not be construed as an opinion of the Court or a declaration of the right of the petitioners to get the structure regularized. Such issue shall be decided in accordance with the provisions of law. As no affidavit is called for, the allegations are deemed to be denied.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the learned advocates' communication.

(Shampa Sarkar, J.)