

17.05.2022
Sl. No.15
srm

W.P.A. No. 5340 of 2021

Meraj Aslam

Versus

The Kolkata Municipal Corporation & Ors.

Md. Shahjahan Hossain,
Ms. Sanjida Sultana,
Mr. Prithwiraj Biswas

...for the Petitioner.

Ms. Tanushree Dasgupta

...for the Kolkata Municipal Corporation.

Mr. Mani Sankar Chattopadhyay

...for the Respondent No.9.

The learned Advocate for the Kolkata Municipal Corporation submits that on the selfsame property another writ petition had been filed being WPA No.5374 of 2021 and accordingly an inspection was held on the basis thereof.

The learned Advocate for the petitioner submits that 5374 of 2021 was the filing number assigned by the filing department of the High Court, but the writ petition has been registered as WPA No.5340 of 2021.

On such submission, the writ petition is disposed of on the basis that WPA No.5340 of 2021 is the only writ petition which has been filed alleging unauthorised construction on Premises No.B198/H/4, A.J.C. Bose Road, Kolkata-700017. It is alleged that the said premises is a *thika* property and a

construction has been made of a G+2 storeyed building, without any permission from the Corporation. The report of the Corporation reflects that violation of the rules, encroachment into the mandatory open spaces and deviation from the sanction granted for a two-storeyed building, had been detected. A stop work notice was issued.

The stop work notice has been filed before the Court. The matter was intimated to the police authorities and the demolition case has also been initiated being D-40/VII/21-22.

Under such circumstances, as the Corporation has already taken steps in accordance with law, on the basis of the complaint of the petitioner, nothing remains to be decided in the writ petition, save and except that the proceedings initiated must be disposed of, by adopting the following method:-

- (a) The competent authority of the Kolkata Municipal Corporation shall cause an inspection of the premises in question, in the presence of the petitioner and all other interested parties. Advance notice of the inspection shall be served upon the interested parties.
- (b) If the construction is still continuing, the authorities shall take interim measures by stopping such construction.

- (c) A report of such inspection shall be prepared along with the sketch map indicating the extent and nature of unauthorised construction, if any.
- (d) Such report, if prepared, shall be handed over to the parties.
- (e) A hearing shall be given to the petitioner and all other interested parties. The parties must also be allowed to file their written objections/version to the said report and adduce oral and documentary evidence in support of their contentions before the competent authority. All points raised by the parties shall be decided. All documents filed by the parties, if any, shall be exchanged.
- (f) A reasoned order shall be passed and communicated to all concerned.
- (g) Needless to mention, the entire proceedings shall be reached to its logical conclusion and the Corporation will be at liberty to proceed in accordance with law if any unauthorised construction is detected.

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

The question of title, encroachment, boundary dispute, etc. shall not be decided by the Corporation.

This Court has not gone into the merits of the claims and counterclaims of the parties and all points are left open for decision by the Corporation.

This writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)