

12.05.2022
Court No. 19
Item no.11
CP

W.P.A. No. 5382 of 2022

Rimpa Naskar
Vs.
Commissioner, Kolkata Municipal Corporation
& Ors.

Mr. Prosenjit Biswas
Mr. Debnath Ganguly
Mr. Aranya Saha
Mr. D. Pratihari
Mr. S. Dutta

...for the petitioner.

Mr. S. Panda
Ms. Manisha Nath

...for the K.M.C.

Mr. Naba Kumar Das
Mr. Subhabrata Das

....for the State.

Despite service none appears on behalf of the
respondent nos. 10 to 12.

The petitioner has alleged that the respondent
nos. 10 to 12 have made an unauthorized
construction by constructing a G+4 storeyed
structure at premises No. 1, Harinath Dey Road,
Kolkata – 700009.

The police report indicates that a construction
is going on at the site. The police authorities have
further submitted that a General Diary has been
recorded and the police authorities are keeping a

strict vigil in the area. Such report is taken on record.

Having considered the grievance of the petitioner, this court is of the view that the Kolkata Municipal Corporation is the appropriate authority to decide the contentions raised by the petitioner in the writ petition with regard to rampant unauthorized construction.

Under such circumstances, the writ petition is disposed of with a direction upon the competent of the Kolkata Municipal Corporation to dispose of the complaint of the petitioner in accordance with law by adopting the following procedure:

- a) An inspection of the premises shall be conducted. Such inspection shall be held in the presence of the parties, with 48 hours advance notice to the petitioner and the respondent nos. 10 to 12. If the parties are not available for service of the notice, the notice shall be affixed at a conspicuous place at the premises in question.
- b) During inspection, if any further construction is detected in violation of the rules, then the corporation can take interim measures.

- c) The report of the inspection shall be prepared along with the sketch map indicating the extent of deviation, if any.
- d) Such report shall be handed over to the petitioner as also the respondent nos. 10 to 12.
- e) A hearing shall be given to the petitioner and respondent nos. 10 to 12. The parties must also be allowed to furnish their written objection/version to the said report and adduce oral and documentary evidence in support of their contentions, before the competent authority.
- f) A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion in terms of the statute.

The court has not gone into the merits of the claims and counter-claims of the parties and the issues shall be decided independently.

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

The writ petition is, thus, disposed of. There shall be no order as to costs.

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

(Shampa Sarkar, J.)