

Item No. 8

29.11.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 4756 of 2020

Basudev Jaiswal

-vs.-

The Kolkata Municipal Corporation & Ors.

Mr. Arijit Dey
Mr. Aniruddha Mitra
... for the petitioner.

Mr. Achintya Kumar Banerjee
Ms. Manisha Nath
... for KMC.

Mr. Dyutiman Banerjee
Mr. A. Mall
Mr. S. Jaiswal
... for the respondent nos. 5 to 7.

The petitioner complains of illegal and unauthorized construction at Premises No. 34, Market Street, Ward No. 52 Borough-VI, Kolkata-700087 under the jurisdiction of the Kolkata Municipal Corporation.

Specific grievance of the petitioner is that the construction has been made in a very congested area without leaving the statutory side open spaces. The petitioner complains that the objection filed against such unauthorized construction has not been considered till date.

Learned advocate representing the private respondents denies the allegations of the petitioner. It has been submitted that construction has been made in accordance with the plan sanctioned.

Learned advocate representing the Kolkata Municipal Corporation has filed a report before this Court signed by the Sub-Assistant Engineer, Assistant Engineer and Executive Engineer (C)/Building, Borough-VI on November 28, 2022 which mentions that the premises was inspected by the department and it was found that no construction work is going on at present. There is a three storied building as per the available office record and a plan has been sanctioned for construction of the same in April 2018. Tallying the site with the sanctioned plan, some deviations in the mandatory open spaces have been found.

It appears from the submissions made on behalf of the parties and on perusal of the report of the engineers of the Corporation that an inspection has already been conducted but the deviations are yet to be clearly identified.

The Executive Engineer of Borough-VI is directed to specifically mention the deviations made at the time of making construction so that the same may be taken care of by the person responsible. Necessary steps shall be taken by the Executive Engineer to deal with the same in accordance with law after giving reasonable opportunity of hearing to all the necessary parties. A formal order shall be passed and communicated to the parties. The entire exercise shall be completed at the earliest, but positively within a period of twelve weeks from the date of communication of a copy of this order.

The writ petition stands disposed of.

Report filed by the engineers of the Corporation dated 28th November, 2022 be retained with the records.

Learned advocate for the private respondents undertakes to file Vakalatnama in the course of this week.

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

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(Amrita Sinha, J.)