

13.01.2022
Court No. 19
Item no.12
CP

WPA 8204 of 2021

Dipankar Rana & ors.

Vs.

The Kolkata Municipal Corporation & ors.

Ms. Sayani Roy Chowdhury

Mr. Debnath Mahata

.....for the petitioners.

Mr. Ranajit Chatterjee

Ms. Leena Panja

....for the K.M.C.

The petitioners are aggrieved by the inaction on the part of the Kolkata Municipal Corporation (hereinafter referred to as the corporation), in issuing a completion certificate in respect of Premises No. 140, Sri Aurobinda Sarani, P.S. Burtolla, Kolkata – 700006. According to the petitioners, although the registration of the said flat in favour of the petitioners was completed in 2015, the corporation authorities sat tight over the matter of issuance of completion certificate. It is further submitted that some illegal constructions may have been made by the promoter but the petitioners should not be made to suffer on account of such deviations and illegal constructions of which the petitioners are not a part.

Mr. Chatterjee, learned advocate appearing on behalf of the corporation, submits that the

corporation had detected unauthorized construction in respect of premises in question and, as such, proceedings before the Special Officer (Building), under Section 400(1) of the Kolkata Municipal Corporation Act, 1980, is under progress. According to him, unless the said demolition case is disposed of, a completion certificate in respect of the said premises in question cannot be given. He further submits that the nature of deviation and the unauthorized construction are yet to be decided. According to him, unless the demolition case is decided finally and the deviations/violations, if any are not rectified, the question of grant of completion certificate would not arise.

Denying such contentions of Mr. Chatterjee, it is submitted by the learned advocate for the petitioners, that the corporation may also issue partial completion certificate, at least, in respect of the flat which has been purchased by the petitioners on the fourth floor.

Mr. Chatterjee further submits that the builder has not yet applied in the proper form with a certificate from the architect certifying that the building had been completed as per the sanction plan.

Under such circumstances, no order can be passed in this writ petition. Once the demolition case

is disposed of, the orders passed in the same are implemented and other necessary formalities are complied with, the completion certificate cannot be granted. The promoter has admitted to the buyers that there are minor deviations in the building.

The corporation shall take up the issue with regard to issuance of the completion certificate after the disposal of the demolition case, and compliance of formalities. The question of granting partial completion certificate in respect of the flat of the petitioner shall be looked into at that stage, if permissible by law.

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.)