

18.01.2022
Court No. 19
Item no.8
sn

WPA 8675 of 2021

Sanjib Mondal
Vs.
The Kolkata Municipal Corporation & ors.

Mr. Nitai Chandra Saha
Mr. Santanu Barik
Mr. Abhijit Ch. Mazumder
.....for the petitioner.

Ms. Jhuma Chakraborty
Mr. Asitava Ghosh
....for the State.

Mr. Gopal Chandra Das
Ms. Piyali Sengupta
.....for the Corporation.

Despite service, none appears on behalf of the respondent nos.6-8. Affidavit of service is taken on record.

The matter is taken up in the absence of the respondent nos.6-8 as no mandatory directions are being passed affecting their rights and the entire matter is relegated to the Corporation for taking necessary steps as per law.

The Corporation upon conducting an inspection have prima facie found that there was an existing sanction plan for construction of a two storied building. Such construction has been made but in deviation of the plan, by encroaching into the open spaces. The change of user of the property had

already been detected by the Corporation. The property is situated at L.R. Khatian no.210 and L.R. Dag No. 258 of Mouza Laskarhat.

According to the Kolkata Municipal Corporation, the said property corresponds to premises no. 220, N.D.B. Road, Madhyadakshin para, Laskarhat, Ward No. 107, Borough XII of the Kolkata Municipal Corporation.

As the Corporation had already prima facie found certain irregularities on the basis of the complaint made by the petitioner, this writ petition is disposed of with a direction upon the Corporation to act and proceed in accordance with law with regard to alleged deviation and the change of user, by adhering to the following directions: -

- a) An inspection of the site 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. 6-8.
- b) The report of the inspection shall be prepared along with the sketch map indicating the extent and nature of unauthorized construction, if any.
- c) Such report shall be handed over to the petitioner as also the respondent nos.6-8.

- d) A hearing shall be given to the petitioner and the respondent nos.6-8. 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.
- e) 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 remedy of the petitioner would be before the Civil Court with regard to the allegations of encroachment and the title dispute.

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

In view of the rising pandemic situation, the entire exercise shall be completed within a period of eight 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.)