

14.01.2022
Court No. 19
Item no.29
CP

WPA 7738 of 2019

Smt. Supti Roy & anr.

Vs.

The Kolkata Municipal Corporation & ors.

Mr. Partha Sarathi Bhattacharyya, Sr. Advocate

Mr. Raju Bhattacharyya

.....for the petitioners.

Mr. Ranajit Chatterjee

Mr. S. Panda

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

Mr. Debjit Mukherjee

Mrs. Rupsha Chakrabarty

.....for the State.

Mr. Ayan Dutta

.....for the respondent nos. 11 & 12.

The writ petition was filed alleging inaction on the part of the Kolkata Municipal Corporation (hereinafter referred to as the corporation), in allowing access to the petitioners to the first floor and the roof of the premises situated at 243-B, Jodhpur Park, Police Station – Lake, Kolkata – 700068.

The petitioners claim to be owners in respect of the ground floor. The respondent nos. 11 and 12 are the owners in respect of the first floor, garage and the roof of the said premises. The petitioners and the

respondents Nos.11 and 12 are owners having their individual shares in the building. As some repairing work was required, the petitioners approached the corporation.

Challenging the inaction of the corporation, the writ petition was filed. A direction was passed by another coordinate bench of this court upon the corporation to make an inspection. A report was also furnished before this court. According to the report, the roof, the ground floor ceiling as also the first floor had to be repaired as the same has been destroyed due to seepage of water. It also appears that access to the roof and the first floor would have to be given to the petitioners by the respondent nos. 11 and 12. It is alleged that such access was not given to the petitioners and the petitioners were living in a very unsafe and precarious situation as the ground floor ceiling was in the verge of collapse.

Mr. Dutta, learned advocate appearing on behalf of the respondent nos. 11 and 12, submits that a copy of the previous inspection report was not supplied to his clients.

Be that as it may, as the first inspection was held sometime in 2019, this court is of the view that a fresh inspection must be made as the situation of the first floor, ground floor and the roof may have deteriorated further and without an assessment of

the current condition, the parties cannot be allowed to undertake the repair work.

It is submitted by Mr. Dutta that the family members of the respondent nos. 11 and 12 are suffering from Covid and some time may be allowed to them, to recover.

Having considered the rival contentions of the parties and without giving any further credence to the earlier report filed before this court, the writ petition is disposed of with a direction upon the competent authority of the corporation to cause an inspection of the entire premises situated at 243-B, Jodhpur Park, in presence of all the parties.

The inspection shall be made with regard to the damaged/dilapidated portions and the nature and extent of damage the building has sustained in the ground and first floors and the roofs. The report will categorically state what repairs were required to make the building habitable and to protect the safety and security of the same including the safety and security of the occupiers. If the corporation finds that the building should be repaired, specially the ground floor and the roof as prayed for by the petitioners, a permission to that effect indicating the nature and extent of repair work shall be prepared and provided to the parties.

The petitioners shall undertake the repair work at their own risk and cost without causing any disturbance to the other respondents. The respondent nos. 11 and 12 shall provide access to the petitioners for the repairing work as would be directed by the corporation authorities. Such repair work shall be restricted to the report/permission to be issued by the corporation authorities and shall be done under the supervision of an empanelled structural engineer. The structural stability of the building shall not be compromised.

The parties are to cooperate and ensure that the building is saved from going into a ruinous condition.

As the respondent nos. 11 and 12 have prayed for some time, let such inspection be made after a month from date upon prior notice to the parties. Thereafter, the entire exercise shall be completed within a period of two months from the date of inspection.

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.)