

Sl. No.16
06.09.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A 11720 of 2022

Sajed Ekbal & Ors.
versus
The State of West Bengal & Ors.

Mr. Sk. Md. Ismail

... for the Petitioners.

Ms. Tanushree Dasgupta

Mr. Dipankar Ghosh

... for the Kolkata Municipal Corporation

Mr. Shibaji Kumar Das

Ms. Rupsa Sreemani

... for the respondent nos.10 & 11

The petitioners allege illegal and unauthorised construction at the instance of the respondent nos.10 and 11 in the premises no.21/1, Ekbalpore Lane, P.O. Khidderpore, Police Station-Ekbalpore.

The petitioners allege that the representation filed on 10th February, 2022 before the Kolkata Municipal Corporation has not been taken up for consideration till date.

Learned advocate representing the respondent nos.9 and 10 submits that the construction was made by the Kolkata Metropolitan Development Authority and the property in question is recorded in favour of the Kolkata Municipal Corporation.

The allegation of raising unauthorised construction is denied by the aforesaid respondents.

Reliance has been placed on documents issued in favour of the respondent nos.9 and 10 by the Kolkata Municipal Corporation and the Kolkata Metropolitan Development Authority with regard to lease of a portion of the space within the Nawab Ali Park at 21/1, Ekbalpore Lane.

Learned advocate for the Kolkata Municipal Corporation has placed a report before this Court signed by the Sub Assistant Engineer (Civil), Assistant Engineer (Civil) and the Executive Engineer (Civil), Borough-IX which mentions that an inspection was conducted and it was found that there exists one storied room of asbestos shed of area 100 square meter and one four sides open boxing ring covered with GI shed area 45 square meter. The ring is used for boxing training and no new construction was found.

At the time of inspection the party was unable to produce any authenticate documents regarding the said structure.

It appears from submission made on behalf of the parties that the property in question is recorded in favour of the Kolkata Municipal Corporation. The private respondents claim that a portion of the said property has been leased out in their favour for running the Boxing Training Institute and the structure

standing thereon has been constructed by the Kolkata Metropolitan Development Authority.

The aforesaid submission of the private respondent is, however, disputed by the learned advocate representing the petitioners.

There is nothing before this Court to ascertain the genuinity of the documents and the veracity of the statements made by the parties.

The representation made by the petitioner alleging unauthorized construction is yet to be disposed of.

In view of the above, the instant writ petition is disposed of by directing the Executive Engineer (Building), Borough-IX, Ward No.78 of the Kolkata Municipal Corporation being the respondent no.6 to consider the representation filed by the petitioners on 10th February, 2022 strictly in accordance with law after giving reasonable opportunity of hearing to the representative of the petitioners, the private respondents, and all other necessary parties including the Kolkata Metropolitan Development Authority and to pass a reasoned order within a period of twelve weeks and communicate the same to the parties immediately thereafter.

In the event, the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or

devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorised construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by the petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The petitioners are directed to forward a copy of the representation dated 10th February, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

Report filed by the Officer-in-Charge, Ekbalpore Police Station dated 22.07.2022 be retained with the records.

Affidavit of service filed in Court is taken on records.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)