

Sl. No.142
14.09.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 13288 of 2021

Smt. Nira Banerjee & Anr.

v.

The Kolkata Municipal Corporation & Ors.

Mr. Prashant Agarwal

... for the petitioners

Mr. Dwijadas Chakraborty

Mr. Sk. Sujauddin

... for the Kolkata Municipal Corporation

None appears on behalf of the respondent nos.5 & 6 despite service.

Affidavit of service filed in Court is taken on records.

The petitioners complain of illegal and unauthorised construction at the instance of the respondent nos.5 & 6 at the premises no.81A, Garpar Road, Police Station Narkeldanga, Kolkata-700 009.

The petitioners allege that complaint filed by the petitioners before the Corporation in March, 2021 has not been taken up for consideration till date.

It has been submitted that construction is being raised in such a manner that there is hardly any side space left in between the two premises.

It has been contended that construction is being made without obtaining any sanctioned plan from the Kolkata Municipal Corporation.

Learned advocate representing the Corporation submits a report before this Court signed by Sub Assistant Engineer(Civil), Assistant Engineer(Civil), Executive Engineer(Civil)/Building, Borough-IV & V dated 11th August, 2021/11th September, 2021.

The report mentions that the department inspected the premises and found that partly two storied residential building exists over a very small plot of land. It was found that the party obtained a sanctioned plan under Circular No.09 being serial no.25/Br-IV/1920 dated 14th March, 2020 over a single storied building.

Further the party got a sanctioned plan under Rule 3(2)(e) and 3(2)(a) vide serial no.25/BR-IV/2021 dated 12th November, 2020. The report mentions that the party constructed in accordance with the sanctioned plan and no deviation was found.

The report that has been handed over in Court is dated nearly one year back.

Learned advocate for the petitioner submits that fresh construction is being made by the private respondents without obtaining any further sanction/permission from the Corporation. No statutory side open spaces have been left at the time of making construction.

It appears that the representation filed by the petitioner is dated 9th March, 2021. In the event the petitioner is aggrieved by any construction at the instance of the private respondents, it will be open for the petitioner to file fresh representation highlighting the illegalities allegedly committed by the private respondents at the time of making construction.

If such a representation is made, the same shall be considered by the respondent no.4 upon a spot inspection being carried out with prior notice to all the parties. An opportunity of hearing shall be afforded to all the parties. The Executive Engineer is directed to pass a reasoned order strictly in accordance with law, within a period of twelve weeks from the date of filing the representation by the petitioner and communicate the reasoned order to the parties immediately thereafter.

If on inspection any unauthorised construction is found to be constructed, then necessary steps shall be taken to deal with the same.

The writ petition stands disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)