

09.02.2022
Court No. 19
Item no.08
CP

WPA 17288 of 2021

Ranjan Debnath
Vs.
Kolkata Municipal Corporation & ors.

Mr. Soumya Mazumdar
Mr. Arjun Mookerjee
Mr. Malay Kumar Seal
....for the petitioner.

Ms. Sima Adhikari
Mr. Tapan Pramanick
....for the State.

Mr. Alak Kr. Ghosh
Mr. S. Panda
....for the K.M.C.

The issues involved in this writ petition are similar to those raised in W.P.A. No. 14565 of 2021, Item No. 6 of today's list.

This court is of the opinion that the matter must be relegated to the authorities of Kolkata Municipal Corporation for consideration and disposal of the grievances of the petitioner. The petitioner shall make a detailed representation to the concerned authority. The same shall be disposed of on the basis of the issues framed by this Court.

(a) Whether the notice/order dated September 28, 2020 could have been issued by applying the law retrospectively.

- (b) Whether the petitioner had indulged in any activity of unauthorisedly filling up and/or raising the level of the land or making any development on the said land.
- (c) Whether the record of rights classifying the land as '*danga*' would come in the way, in issuance of the order and
- (d) Whether subsequent changes in the character of the land as a natural event would entitle the authorities to proceed under the law against the person responsible.

The issues shall be decided and disposed of by the competent authority of the Kolkata Municipal Corporation by passing a reasoned order upon hearing the petitioner and giving the petitioner adequate opportunity to adduce both documentary and oral evidence.

Before such disposal, the authorities shall inspect the premises in the presence of the parties and prepare a report. An opportunity shall be given to the petitioner to file his objection to the said report. Thereafter, the above exercises shall be completed by the authorities.

The entire exercise shall be completed within a period of three months from the date of communication of this order.

The petitioner shall not at this stage fill up the land or even raise the level of the land, thereby changing the nature and character of the land in question.

This Court has not gone into the merits of the case insofar as the factual aspects are concerned and also the legal position at this stage. The Court is of the opinion that the authorities are required to answer the issues framed by the Court at the first instance.

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.)