

S/L 4
10.03.2022
Court. No. 19
GB

W.P.A. 20703 of 2021

Md. Aftab Alam @ Aftab Alam
VS
The Municipal Commissioner,
Kolkata Municipal Corporation & Ors.

*Mr. Zeeshan Uddin,
Ms. A. Khatoon,
Md. Nasim.*

...for the Petitioner.

*Md. Gausul Alam,
Mr. Ranjit Rajat.*

...for the State.

Mr. Gopal Chandra Das.

...for the K.M.C.

Two sets of affidavit-of-service have been filed in Court, which indicate that the postal articles addressed to the respondent no.6 have been delivered on the first occasion on December 20, 2021 and thereafter on February 28, 2022 upon one Md. Faiyaz Ahmed. Such service was pursuant to the order of this Court.

The affidavits-of-service are taken on record.

None appears on behalf of the respondent no.6.

The delivery of the postal articles have been made in the address mentioned in the cause title of the writ petition. The matter is taken up in the absence of the said respondents as the Court is not passing mandatory orders against the said respondents, but is delegating the entire dispute, for adjudication by the Kolkata Municipal Corporation.

The allegation is that the respondent no.6 has constructed illegally on a portion of premises no.7/1/H/8,

Narkeldanga Main Road, Police Station – Narkeldanga, Kolkata – 700011.

The Kolkata Municipal Corporation was directed to come back with instructions on the earlier occasion with regard to the allegations made by the petitioner. Mr. Das, learned advocate appearing on behalf of the Corporation submits that stop work notice has been issued. An FIR has also been lodged with the Narkeldanga Police Station and the Corporation has made preparations to initiate a demolition case.

As the Corporation has already taken steps on the complaint of the petitioner, nothing further remains to be decided in the writ petition. The competent authority of the Kolkata Municipal Corporation shall dispose of the matter in accordance with law by adhering to the following procedures:-

a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent no.6, within three weeks. Advance notice of the inspection shall be served upon the petitioner and the respondent no.6. If the parties are not available to accept notice, the authorities shall affix the notices of hearing and inspection at conspicuous places in their respective premises.

b) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and was continuing, the

authorities may take such interim measures by stopping such construction.

c) The report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.

d) Such report shall be handed over to the parties.

e) A hearing shall be given to the petitioner and the respondent no.6. 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. All points raised by either party, shall be decided.

f) 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 court has not gone into the merits of the claims and counter-claims of the parties and the issues involved shall be decided independently and the proceedings which have been initiated by the police authority shall proceed in accordance with law and reached to its logical conclusion.

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

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the learned advocate's communication.

(Shampa Sarkar, J.)