

Item No. 30

7.11.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 20346 of 2022
Bholanath Sil & Anr.

v.

The Kolkata Municipal Corporation & Ors.

Mr. Raghunath Chakraborty
Ms. Paromita Malakar (Dutta)
Mr. Sneha Das
... for the petitioners.

Mr. Debabrata Acharyya
Mr. Sital Samanta
... for the respondent no. 14.

Mr. Himadri Sikhar Chakraborty
Ms. Karabi Roy
... for the State.

Mr. Achintya Kumar Banerjee
Mr. Debangshu Mondal
... for KMC.

The petitioners complain of illegal and unauthorized construction at the premises no. 32, Vivekananda Sarani, Ward No. 104, Kolkata-700 078.

The petitioners complain that construction is being made without maintaining the statutory side open spaces.

Learned advocate representing the private respondent no. 14, Subrata Halder denies the allegation of the petitioners. It has been submitted, upon instruction that, construction is being made in accordance with the plan sanctioned by the Kolkata

Municipal Corporation and the said sanction is valid till October 16, 2025.

It has further been submitted that an earlier writ petition was also filed in connection with the same premises by a different party being WPA 8778 of 2022 (Promode Chandra Paul v. Kolkata Municipal Corporation & Ors.). The Court by order dated August 30, 2022 was pleased to pass necessary order and in response to the said order, notice of hearing has already been issued by the Kolkata Municipal Corporation.

It has been submitted that the present writ petition has been filed by a different party with the self same allegation, for illegal gain.

In response to the aforesaid submission the learned advocate for the petitioners submits that their shop is located in front of the premises where the construction is being made without leaving any space. The same is hampering their business. The private respondents were taking steps to make construction in deviation of the plan sanctioned by the Corporation.

It appears from the submissions made by the parties that the construction work at premises no. 32 Vivekananda Sarani is already under scrutiny by the Kolkata Municipal Corporation. Notice has been issued to ascertain the allegation of unauthorized construction.

The Executive Engineer, Borough-XI is directed to issue notice to the petitioners and permit them to participate in the hearing to be held to ascertain and deal with unauthorized construction, if any, at the subject premises.

The notice of hearing shall be issued in favour of the petitioners at the earliest. The Executive Engineer shall take steps to ensure that the objection of the petitioners is taken into consideration simultaneously with the objection raised by the petitioners in WPA 8778 of 2022 (supra).

The aforesaid authority shall pass a reasoned order and communicate the same to the parties immediately thereafter.

It is made clear that the aforesaid respondent shall not entertain or decide any private dispute between the parties and the parties will be at liberty to approach the appropriate forum for redressal of their grievances, if so advised.

The writ petition stands disposed of.

The learned advocate for the petitioners is directed to forward a copy of the representation dated June 28, 2022 to the aforesaid respondent at the time of communicating the order of this Court.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities

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(Amrita Sinha, J.)