

Sl. No.14
09.11.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 20846 of 2022

Md. Shahid Parvez
versus
Kolkata Municipal Corporation & Ors.

Mr. Shibaji Kumar Das
Ms. Rupsa Sreemani

... for the Petitioner.

Mr. Rajarshi Basu
Mr. K. M. Hossain

... for the State

None appears either on behalf of the Kolkata Municipal Corporation or the respondent nos.14 and 15.

In response to the complaint lodged by the petitioner alleging illegal and unauthorised construction at the premises no.40/2, Broad Street, Ward No.65, Borough-VII of the Kolkata Municipal Corporation a hearing was conducted by the Special Officer (Building).

Learned advocate for the petitioner submits that the petitioner attended the hearing on repeated occasions but the persons responsible failed to appear in the hearing conducted.

It has been submitted that despite several hearing being conducted, the Special Officer (Building) failed to conclude the proceeding. The private

respondents taking advantage of the pending proceeding are continuing with the unauthorised construction.

The petitioner filed further representation before the Corporation on 22nd August, 2022 and complains that the same has also not been taken up for consideration till date.

It appears from the documents annexed to the writ petition that construction complained of is under scrutiny before the Special Officer (Building) and hearing was conducted on repeated occasion. The same is yet to be concluded.

In the absence of proper representation from the end of the Kolkata Municipal Corporation and the private respondents, the Court is not in a position to decide the issue conclusively.

In view of the above, the instant writ petition is disposed of by directing the respondent no.5 to take steps to conclude the pending proceeding dealing with the allegation of unauthorised construction of the subject premises in accordance with law, at the earliest but positively within a period of twelve weeks from the date of communication of this order.

The aforesaid respondent shall ensure that no unauthorised construction is carried on at the subject premises during the pendency of the proceeding.

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 petitioner 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 petitioner is directed to forward a copy of the representation dated 22nd August, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Affidavit of service filed in Court is taken on records.

The notice served by the learned advocate for the petitioner upon the parties including the private respondents by letter dated 20th September, 2022 be also retained with the records.

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

(Amrita Sinha, J.)