

WPA 8329 of 2020

Bhudeb Shaw
Vs.
Kolkata Municipal Corporation & Ors.

Mr. Manjit Singh
Md. Malik Uddin
... for the petitioner

Mr. Debjit Mukherjee
Ms. Susmita Chatterjee
... for the KMC

Mr. Bhabani Prasad Mondal
Mr. Sukanta Mondal
... for the respondent No.7 to 9

The petitioner alleges that the Kolkata Municipal Corporation has failed and neglected to take steps despite several complaints lodged by the petitioner with regard to the alleged illegal and unauthorized construction on premises no. 309/1, Pirpukur Road, 36, Saradamoni Park, P.O. & P.S. Bansdrani, Kolkata – 700070.

Reliance has been placed on a communication received from the Corporation under the Right to Information Act. From the answers to the queries made by the petitioner, it appears that the Corporation did not sanction any plan for the alleged construction.

Learned advocate for respondent nos. 7 to 9 submits that pursuant to the stop work notice received from the Corporation, no construction was being made on the alleged premises. It is further

submitted that an application has been filed for regularization of the said construction in accordance with the provisions of the Kolkata Municipal Corporation Act, 1980.

Be that as it may, as disputed questions of fact have evolved and it is the Corporation itself which is to decide and take steps against the illegal construction, this writ petition is disposed of with a direction upon the competent authority of the Kolkata Municipal Corporation to act and proceed in accordance with law and dispose of the complaint lodged by the petitioner, which is annexure P-8 at page 31 of the writ petition. While doing so, the following procedure shall be followed:-

a) An inspection of the premises shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos.7 to 9, within three weeks. Advance notice of the inspection shall be served upon the petitioner and the respondent nos.7 to 9. 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) The Corporation has already issued a stop work notice under Section 400(1) of the Kolkata Municipal Act, 1980 and has also intimated the matter to the local police station for necessary action. If it is

found during such inspection that the construction is still going on, then further interim measures shall be taken by the Corporation.

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 nos.7 to 9. 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.

Needless to mention, the entire issue along with the question of regularization as claimed by the respondent nos.7 to 9 shall be decided in accordance with law.

The issues regarding title, boundaries and encroachments shall not be decided.

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.

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.)