

Sl. No.5
05.07.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 9772 of 2020

Smt. Itu Chakraborty & Anr.

v.

Kolkata Municipal Corporation & Ors.

Mr. Manabendra Thakur

Mr. Partha Sarathi Das

... for the petitioner

Mr. Alok Kumar Ghosh

Mr. Subhrangsu Panda

... for the Kolkata Municipal Corporation

Mr. Kishore Mukherjee

... for the respondent nos.6 & 7

Learned advocate representing the respondent nos.6 & 7 has filed his Vakalatnama in the department being filing No.A-5179 dated 07.04.2021.

The department is directed to tag the Vakalatnama with the records of the present case.

The petitioner claims to be a tenant in respect of premises No.4, Kali Charan Seth Lane, Post Office-Ghugudanga, Police Station-Sinthee, Kolkata-700 030, Ward No.2 under the jurisdiction of the Kolkata Municipal Corporation.

The allegation of the petitioners is that the respondent no.6 is making construction on the said

premises without reserving any space for the petitioners who are tenants of the said premises.

The petitioner no.1 is the daughter and the petitioner no.2 is the widow of the deceased tenant Jagabandhu Dey.

The petitioners apprehend that the developer will dispossess and evict them from the tenancy without the due process of law.

The petitioners made representation before the Kolkata Municipal Corporation on 7th October, 2020 praying for stopping and/or cancelling the building plan and allege that the same has not been considered till date.

Learned advocate representing the developer and one of the joint tenants i.e. the respondent nos.6 & 7 submits that the petitioners' predecessor-in-interest was one of the joint tenants of a portion of a said premises. After the death of the predecessor-in-interest, the petitioners have left the said premises and are residing elsewhere.

No objection has already given by the other joint tenant that is the respondent no.7 in favour of the developer the respondent no.6, herein.

The respondent nos.6 & 7 challenges the status of the petitioners as tenants of the said premises.

Learned advocate representing the Kolkata Municipal Corporation submits that the Corporation is

not bound by the agreement between the private parties. The Corporation acts in accordance with the provisions as enshrined in the Kolkata Municipal Corporation Act, 1980.

It appears from the submissions made on behalf of the parties that the petitioners apprehend that their tenancy right will be extinguished at the instance of the respondent nos.6 & 7 and a representation to that effect has been filed before the Kolkata Municipal Corporation which is pending consideration.

Accordingly, the instant writ petition is disposed of by directing the Executive Engineer (Building), Borough-I of the Kolkata Municipal Corporation to consider the representation filed by the petitioners strictly 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 afford an opportunity of hearing to all the necessary parties prior to taking a decision in the matter.

The aforesaid respondent shall however, not entertain and/or decide any private dispute in between the parties and will restrict the consideration as to whether plan has been sanctioned in the proper manner or not.

A reasoned order shall be passed by the aforesaid respondent and communicated to the parties thereafter.

The writ petition stands disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)