

OD-6

ORDER SHEET

WPO/117/2022

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

MD EHTESHAM UDDIN
VERSUS
KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : 18th January, 2022.

[Via Video Conference]

Appearance:

Mr. Sarvapriya Mukherjee, Adv.

Mr. Arif Ali, Adv.

Mrs. N. Siddique, Adv.

Mr. S. Bhattacharjee, Adv.

For the petitioner.

Mr. Ranajit Chatterjee, Adv.

Ms. Piyali Sengupta, Adv.

For the K.M.C.

The Court :- The petitioner has alleged unauthorized construction on premises Nos. [i] B-43/H/1, Canal East Road, Kolkata-700 011, [ii] 39A, Canal East Road, Kolkata-700 011, [iii] 3/3D, Narkeldanga Main Road, Kolkata-700 011 and [iv] 55/D/2, Sastitola Road, Kolkata-700 011, all under Ward No. 29, Borough-III.

It is the specific contention of the petitioner that the said constructions are being carried on either on government land or thika

land by some unknown persons. The identity of the persons who have raised such unauthorized construction could not be disclosed by the petitioner as the same were not within the knowledge of the petitioner.

Ms. Sengupta, learned Advocate appearing on behalf of the Kolkata Municipal Corporation, submits that inspections were made in respect of all the four premises and unauthorized constructions have been found. It is further submitted by Ms. Sengupta that stop work notice has already been issued against all the four premises and demolition proceedings have been initiated.

As the Kolkata Municipal Corporation has already taken steps pursuant to the complaints made by the petitioner, nothing remains to be decided in the writ petition save and except that the Corporation shall reach the proceedings so far initiated, to its logical conclusion in accordance with law.

In doing so, the Corporation shall adhere to the following procedure:-

a] An inspection of all the premises shall be held on separate dates and time upon notices to the petitioner as also the person responsible for the construction and/or occupying the said premises. Upon holding the inspection, the Corporation authorities shall prepare an inspection report with the sketch map indicating the nature of the deviation or of the unauthorized construction. Copies of the inspection report and sketch map shall be handed over to the petitioner as also the parties responsible for such construction and those in occupation of the

alleged premises. All the parties will be entitled to file their written objection/written version to the said report and also adduce oral and documentary evidence in support of their individual contentions.

b) A reasoned order shall be passed and communicated to all the parties upon giving an opportunity of hearing.

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

It is made clear that this Court has not gone into the merits of the claim of the petitioner.

The question of title shall not be gone into. The proceedings shall be restricted to the allegations of unauthorized construction.

The question of title and encroachment shall not be gone into by the Corporation.

All parties are to act on the basis of the server copy of this order.

(SHAMPA SARKAR, J)