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ORDER SHEET

WPO/446/2022

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SMT.JALPANA MONDAL
Versus
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : 11th February, 2022.

[Via Video Conference]

Appearance:
Mr. Manas Kumar Barman, Adv.
For the petitioner.

Mr. Gaurav Purkayastha, Adv.
For the respondent no.11.

Mr. Rakheswar Dey Sarkar, Adv.
For the respondent no.12.

Mr. Debjit Mukherjee, Adv.
Ms. Susmita Chatterjee, Adv.
For the State.

Mr. Gopal Chandra Das, Adv.
Mr. Rudranil De, Adv.
For the K.M.C.

The Court :- The petitioner has alleged that the respondent no.12 i.e. the promoter has made some unauthorized construction on premises No. 8, Surya Sen Street, Post Office: Bowbazar, Police Station: Muchipara, Kolkata 700 012.

It is submitted that the promoter has constructed beyond the sanction plan and in violation of the building rules. A complaint was lodged with the competent authority of the Kolkata Municipal

Corporation dated November 19, 2021. It is urged by the petitioner that the Corporation has failed and neglected to take steps on the basis of complaint.

Mr. Dey Sarkar, learned Advocate appearing on behalf of the respondent no.12 denies the allegation. He produces a copy of the sanction plan in order to substantiate his claim that the construction has been made in accordance with the sanction plan. It is further submitted that no unauthorized construction has been made either contrary to the sanction plan or in violation of the building rules.

Mr. Gaurav Purkayastha, learned Advocate appearing on behalf of the respondent no.11, submits that the respondent no. 10 has expired and since the heirs of the respondent no.10 are not substituted in the proceedings, orders should not be passed against the said respondents. Mr. Purkayastha hands over a copy of a letter dated January 29, 2022 written by his learned Advocate to the promoter asking the promoter not indulge in any unauthorized construction. The said letter is taken on record.

As the Court does not wish to keep the writ petition pending, no directions are being passed for bringing on record the heirs of the deceased respondent no.10. The writ petition is disposed of with a direction upon the competent authority of the Kolkata Municipal Corporation to decide the complaint dated November 19, 2021 written by the petitioner to the authorities. While disposing of the said complaint, the petitioner, the respondent no.11, the heirs of the respondent no.10

and the respondent no.12 shall be heard. The following procedure shall be adhered to:-

- a) The Corporation shall cause an inspection of the premises in question upon notice to the parties. Upon inspection, the Corporation may adopt appropriate interim measures as may be, prima facie, necessary.
- b) Upon holding the inspection, the Corporation authorities shall prepare an inspection report with a sketch map, indicating the nature and extent of the unauthorized construction. Copies of the inspection report and sketch map shall be handed over to the parties.
- c) Parties will be entitled to file their written objection/written versions to the said report and also adduce oral and documentary evidence in support of her contention.
- d) A reasoned order shall be passed and communicated to the parties upon giving an opportunity of hearing to all.
- e) The proceedings must be reached to its logical conclusion.

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

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

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

The report filed by the police authority is taken on record.

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

(SHAMPA SARKAR, J)

snn.