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ORDER SHEET

WPO 1091 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

M/S. RAM BALLAV SATYANARAYAN & ANR.
VS.
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date: April 12, 2022

Mr. Santanu Chatterjee, Advocate for the writ petitioner.
Mr. Ranajit Chatterjee, Mr. Dipankar Ghosh, Advocates for KMC.
Mr. Arindam Banerjee, Advocate private respondent.
Ms. Tuli Sinha, Advocate for the State.

The Court : The Kolkata Municipal Corporation has filed a report from which it appears that in the inspection book the name of Ram Ballav Satyanarayan, the petitioner no.1, has been recorded as a tenant/occupier in respect of one room (room no.15) in the ground floor of the premises no. 171A, Mahatma Gandhi Road, Kolkata-700 007. Report and the copy of inspection book, showing the name of the writ petitioner no.1 as a tenant are taken on record. Police authorities have also filed a report, from which it appears that the construction work is going on in the premises. The premises is owned by the estate of Babulal Agarwal. The premises has been leased to Diptimal Agarwal and Kumud Agarwal.

The grievance of the writ petitioner is that, although the writ petitioner No.1 is a tenant/occupier in respect of one room in the premises in question, in the building plan which has been sanctioned for the reconstruction, the petitioner no.1 has not been provided for. Reliance has been placed on an information given under the Right to Information Act dated June 18, 2021 from which it appears that no provision of any room has been made in the ground floor of the sanctioned plan showing that the petitioner no.1 would be accommodated in the newly constructed building.

Mr. Arindam Banerjee, learned Advocate appearing on behalf of the owners submits that one room has been provided for in respect of Ram Ballav Satyanarayan proportionate to the area it was occupying. Mr. Banerjee, however, does not admit the locus of the writ petitioner to sign this application on behalf of Ram Ballav Satyanarayan.

Mr. Santanu Chatterjee, learned Advocate appearing on behalf of the writ petitioner submits that the writ petition has been signed by the constituted attorney of the partnership firm.

Be that as it may, the issue involved is whether Ram Ballav Satyanarayan, the partnership firm which is a tenant in respect of a shop in the ground floor, has been accommodated in the building plan or not.

Mr. Banerjee is not in a position to produce the plan before this Court, but he undertakes before the Court that the provision has been made in respect of Ram Ballav Satyanarayan.

The petitioner relies on a circular issued by the Municipal Corporation in exercise of power under Rule 142 of the Kolkata Municipal Corporation Rules, 2009 which categorically states that the tenancy shall be protected in terms of the West Bengal Premises Tenancy Act at the time of sanction of the building plan and execution of the same and the written consent of the each tenant, that the tenant did not have objection to the proposed development after demolition of the existing structure, shall also be obtained by the Corporation.

The petitioner will apply for a certified copy of the plan and/or take inspection of the plan from the Corporation and the Corporation shall hand over the plan to the petitioner for such purpose. If the petitioner finds that the plan which has been sanctioned does not provide for Ram Ballav Satyanarayan, the petitioner shall file his objection before the Commissioner, Kolkata Municipal Corporation and pray for appropriate relief, in terms of the provision of law and the rules applicable. The matter will be disposed of by the Commissioner or his delegatee upon hearing the parties and necessary orders shall be made with regard to the construction and the incorporation of the name of the petitioner No.1 in the plan.

The writ petition is disposed of.

(SHAMPA SARKAR, J.)