

OD-7

WPO/397/2019

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SWAPNA CHAKRABORTY AND ORS.
-Versus-
KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date : 10th November, 2022

Appearance:
Mr. Kallol Guha Thakurta, Adv.
..for the petitioners

Mr. Alak Kumar Ghosh, Adv.
Mr. Swapan Kr. Debnath, Adv.
Mr. Debangshu Mondal, Adv.
..for KMC

Mr. Raghunath Chakraborty, Adv.
Mr. M. Ahmed, Adv.
..for respondent no.8

The Court: The petitioners pray for issuance of a writ of Mandamus setting aside the order dated 1st April, 2019 by the Special Officer (Building), Kolkata Municipal Corporation directing demolition of the G+III storied building standing on the premises no.138, Bandipur Road, Ward No.113, Borough XI within 30 days from the date of receipt of the order, failing which the KMC authority would demolish the same at the cost and risk of the person responsible.

It appears from documents on record that the said order of demotion has been passed as the authority was of the opinion that the plan for making construction was obtained by misrepresenting the facts.

Report of the Block Land and Land Reforms Officer filed before this Court in an earlier proceeding relating to the self-same construction mentions that the plot in question is recorded as a waterbody but the same has been converted to Danga for making construction thereon. There is no order for conversion of the classification of the said land from 'pukur' to 'danga'.

The plan which was sanctioned for making construction thereon was cancelled by invoking the provision of Section 397 of the Kolkata Municipal Corporation Act, 1980. The order of cancellation of the building plan has been upheld by this Court in WPO/643/2018.

Pursuant to the cancellation of the building plan, the Special Officer (Building) passed the order for demolition of the construction made on the strength of the said building plan.

The petitioners have been directed to produce documents regarding the existing water connection at the said premises.

Learned advocate for the petitioners submits that the said documents have duly been forwarded before the concerned authority.

It appears from the fact stated hereinabove that there is hardly any infirmity in the order passed by the Special Officer (Building) directing demolition of a construction which was made relying on a plan

sanctioned under misrepresentation and which was subsequently cancelled.

In view of the above, no relief can be granted to the petitioners in the instant case. The writ petition fails and is hereby dismissed.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)

bp.