

WPO No. 416 of 2019
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

AMAR NATH SINGH & ANR.
-Versus-
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 2nd August, 2022.

Appearance:
Mr. Saptangsu Basu, Sr. Adv.
Mr. Nirmalya Dasgupta, Adv.
Mr. Rajesh Upadhyay, Adv.
...for Petitioners.

Mr. Achinta Kumar Banerjee, Adv.
Ms. Manisha Nath, Adv.
...for KMC.

Mrs. Sipra Majumder, Adv.
Mrs. Debarati Sen (Bose), Adv.
...for State.

Mr. Lalratan Mondal, Adv.
...for Respondent No. 7.

Mr. Srijib Chakraborty, Adv.
Ms. Sudeshna Basu Thakur, Adv.
...for Respondent No. 8 to 10.

The Court:-The matter relates to the premises No. 26, Shibhala Street, Kolkata- 700 007, Ward No.23, Borough-IV under the jurisdiction of the Kolkata Municipal Corporation.

In terms of the order passed by this Court in this matter on 17th September, 2019, the petitioners claiming to be the owners of the aforesaid property has filed a plan proposal before the Kolkata Municipal Corporation for raising construction in the aforesaid premises after demolishing the old structure existing thereat.

Today, at the time of hearing of the writ petition a report has been placed before this Court by the learned Advocate representing the Kolkata Municipal Corporation signed by the Assistant Engineer (Civil) and the Executive Engineer (Civil)/Building/Borough-IV & V dated 29th July, 2022.

The said report mentions that a plan proposal has been submitted by the petitioners in the department under Rule 142 of the Kolkata Municipal Corporation Building Rules, 2009 read with Section 393 of the Kolkata Municipal Corporation Act, 1980 on 25th September, 2019.

The applicants i.e. the petitioners did not submit the relevant documents in support of the plan proposal. Very recently, the applicants have submitted the Original Assessment Roll Copy dated 21st November, 2019 and the Original Inspection Book Copy as on 03/2005-06.

According to the Kolkata Municipal Corporation, the plan proposal will be processed only after submission of the documents as mentioned in the said report. There are as many as 18 (eighteen) documents to be submitted by the petitioners for the purpose of proceedings with the plan proposal.

Learned Advocate representing the respondent nos. 8 to 10 raises the issue with regard to title of the property in question. It has been submitted that the Title Suit No.1684 of 2016 is presently pending consideration before the learned XIIth Bench of the City Civil Court at Calcutta. The respondent no.10, that is, Swapan Pal, the plaintiff No.1 in the Title Suit No.1684 of 2016 has taken out an application for adding the writ petitioners as parties in the

pending Title Suit. The respondent no. 10 claims to be the sebaite of the deity at the said premises.

The respondent nos. 7, 8 and 9 claim to be the occupiers of the said premises.

It will be open for the petitioners to submit the documents as required by the Corporation for processing the plan proposal at the earliest but positively within a period of eight weeks from date.

The Kolkata Municipal Corporation shall take steps to proceed with the plan proposal upon submission of the documents as mentioned in the report dated 29th July, 2022, copy whereof has been handed over to the learned Advocate for the petitioners in Court today, within a period of nine weeks after receipt of the documents from the petitioners.

Till a decision is taken by the Corporation within the time as specified hereinabove, the interim order passed by this Court on 20th August, 2019 shall continue. In the event, the petitioners fail to submit the documents as indicated within the time as mentioned hereinabove, then the interim order that is subsisting in the matter shall automatically stand vacated.

The Kolkata Municipal Corporation shall take a decision in the matter after giving reasonable opportunity of hearing to all the necessary parties and thereafter pass order in respect of the plan proposal submitted by the petitioners for sanction.

The Kolkata Municipal Corporation is restrained from entering into or deciding the issue of title of the parties in respect of the aforesaid premises.

The consideration by the Corporation shall be restricted with regard to the plan proposal that has been submitted by the petitioners.

None of the other issues raised by the petitioners are decided in the present writ petition. The writ petition stands disposed of.

The report dated 29th July, 2022 filed by the Kolkata Municipal Corporation in Court today be retained with the records.

The report filed by the Officer-in-Charge, Posta Police Station in Court today is taken on record.

Affidavit-in-opposition filed by the respondent no.10 in Court today be retained with the record.

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

(AMRITA SINHA, J.)