

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

IA NO: GA/3/2021
A.P.O. No. 342 of 2017

Skynet Tradecom Pvt. Ltd.
Versus
Nilesh P. Mehta & Ors.

BEFORE:

The Hon'ble JUSTICE ARIJIT BANERJEE

-And-

The Hon'ble JUSTICE KAUSIK CHANDA

Date : 17th February, 2022.

Ms. Sourojit Dasgupta with Ms. Kumkum Mukherjee, Advs.
... for Appellant.

Mr. Dhirendera Nath Sharma with Ms. Arunima Lala Sengupta
& Mr. Swetank Nigam, Advs.
... for KMC/Respondent nos. 1 - 5.

Mr. Barin Banerjee with Mr. Gurudas Mitra &
Mr. Dipankar Ghosh, Advs.
... for KMC.

Mr. Amitesh Banerjee, Sr. Adv. with Mr. Tarak Karan, Adv.
... for State.

This appeal is directed against a judgement and order dated May 4, 2017 whereby W.P. No. 433 of 2016 and connected applications were disposed of by the learned Single Judge.

The writ petitioners/respondents approached the learned Single Bench with the grievance that the appellant herein, which was the owner of the premises in question, had obtained sanction of a plan for rebuilding/reconstruction of the present building on the said premises

after demolition thereof, on the basis of forged documents. More specifically, it was contended that the signatures of the writ petitioners or some of them who are tenants in respect of the ground floor of the building in question, were forged on consent documents. In fact, there was no such consent from the tenants.

The learned Judge found that indeed signatures had been forged and the documents had been manufactured by the concerned officers of the appellant. Learned Judge directed initiation of criminal proceedings against the concerned officers. We are told that criminal action has been initiated against the concerned employees of the appellant. The appellant does not seek any redressal in respect of that portion of the impugned order.

The appellant is aggrieved by the direction of the learned Single Judge on the Commissioner of Kolkata Municipal Corporation to initiate proceedings under Section 397 of the Kolkata Municipal Corporation Act, 1980 for cancellation of the plan that had been sanctioned in favour of the appellant company since the learned Judge opined that such sanction was obtained by fraud. We are told that the plan that was sanctioned in favour of the appellant, has lapsed by efflux of time. The plan was sanctioned in 2014. Naturally, after five years the plan lapsed. We are told that the

appellant has applied for revalidation of the plan. Such application is pending.

In view of the aforesaid, nothing remains to be decided in the appeal. The challenge against the portion of the impugned order directing initiation of proceedings under Section 397 of the KMC Act, has become infructuous. Regarding the other portion of the order under challenge, the appellant does not seek any relief. Nothing remains to be decided in this appeal.

It is, however, submitted by learned counsel for the appellant that the building is in bad condition and runs the risk of collapsing. The appellant is agreeable to rehabilitate the writ petitioners/tenants in the reconstructed building allotting to them equal areas as they are holding now. However, in spite of such offer if the tenants do not cooperate with the appellant, in case of any untoward incident, the appellant may not be held responsible and the tenants would have to bear the responsibility.

Learned Advocate for the writ petitioners/tenants says that the building is not in such a bad condition at all. However, if it requires repairs, the tenants will effect necessary repairs and such liberty has also been given to them by the learned City Civil Court at Calcutta in Title Suit nos. TS/74/2015 and TS/75/2015.

Learned Counsel for the Corporation submits that pursuant to the sanctioned plan issued in favour of the appellant, certain portions of the

building in question have already been demolished. If any accident occurs, the Corporation should not be held responsible.

We have just recorded the aforesaid submissions of the learned Counsel for the respective parties and make no comments thereon.

The application of the appellant for revalidation of the plan will be decided by the Corporation in accordance with law and the applicable rules.

In course of considering the appellant's application for revalidation of rebuilding plan, the Corporation shall give an opportunity of hearing to the writ petitioners/tenants who shall be entitled to raise any objection that may be available to them before the Corporation authority.

The appeal and the connected application are accordingly disposed of.

(ARIJIT BANERJEE, J.)

(KAUSIK CHANDA, J.)