

OD-3

ORDER SHEET

WPO/1983/2022

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

MR. ASHOK KUMAR BAID AND ORS.
Versus
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date : 6th May, 2022.

Appearance:
Mr. Kajal Baran Ray, Adv.
For the petitioners.

Mr. Reetobroto Kumar Mitra, Adv.
Mr. Rudrajit Sarkar, Adv.
Mr. Debangshu Dinda, Adv.
Mr. R.K. Mitra, Adv.
For the respondent nos. 6 and 7.

Mr. Barin Banerjee, Adv.
Mr. Debangshu Mondal, Adv.
For the K.M.C.

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

The Court:- The petitioners allege that the respondent nos. 6 and 7 have raised certain unauthorized construction at the building complex known as “Arihant Garden” situated at 81, Southern Avenue, Kolkata-700 029.

The allegations are of addition, alteration and reconstruction in Flat No. 7B situated on 7th floor of the said building.

Mr. Mitra, learned Advocate appearing on behalf of the respondent nos. 6 and 7, submits that the allegations are baseless and have been made out of spite. The said respondents already own other flats in the said building and there has never been any complaint against such usage and occupation.

The Corporation has filed a report from which it appears that the stop work notice under Section 401 of the Kolkata Municipal Corporation Act, 1980 has been issued.

The police authorities have also filed a report from which it appears that the complaint of the petitioners and the intimation by the Corporation have been diarized.

As the Corporation has already taken cognizance of the complaint of the petitioners, nothing further remains to be decided in the writ petition save and except that the Corporation shall initiate proceedings in accordance with law and reach the same to its logical conclusion. While doing so, the Corporation shall adopt the following procedure:-

- a) The Corporation shall cause an inspection of the premises in question upon notice to the petitioners and the respondents Nos. 6 and 7. 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, if any. 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 their contentions.
- 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.

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

The other prayer of the petitioners for a direction upon the Corporation to pass an order asking the respondent nos. 6 and 7 to reconstruct the demolished portion, is not considered in this proceeding. The petitioners will be at liberty to raise such issues before the appropriate authority of the corporation at the appropriate stage, if the situation so arises and after the completion of the demolition proceeding.

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

WPO/1983/2022 is, thus, disposed of.

As no affidavit has been called for, the allegations made in the writ petition are deemed to have been denied.

(SHAMPA SARKAR, J)

snn.