

OD-4

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

I.A. NO: GA/2/2022

IN

APOT/67/2022

With

WPO/906/2022

DR. MRS. SARMILA CHANDRA

VS

THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:

The Hon'ble JUSTICE ARIJIT BANERJEE

The Hon'ble JUSTICE RAI CHATTOPADHYAY

Date : 19TH JULY, 2022.

Appearance:

Mr. Raghunath Chakraborty, Advocate

...for appellant

Mr. Biswajit Mukherjee, Advocate

Ms. Manisha Nath, Advocate

...for KMC

Mr. Naba Kumar Das, Advocate

Mr. Subhabrata Das, Advocate

...for State

THE COURT: This appeal is directed against an order dated February 28, 2022, the operative portion whereof reads as follows:

“Mr. Mukherjee, learned Advocate also refers to the lease deed to show that construction over the vacant spaces in the premises was also permitted under the lease deed. He further submits that the heirs of the lessees in terms of the lease deed, which appears at page 37 Annexure P-5, must be impleaded in the proceeding. The

petitioner is granted leave to incorporate the heirs of the lessee in this proceeding. Let the writ petition be served upon them. Affidavit in opposition be filed within four weeks from date; reply, if any, be filed within two weeks thereafter. Liberty to mention.

In the affidavit to be filed by the Corporation, the Corporation shall include statements of those persons residing on the three floors over and above the sanctioned area to ascertain who was the person responsible for such construction. The Corporation shall make all efforts to recover the file from its records with regard to the sanction granted in respect of the premises in question.”

The writ petition is pending. The learned Single Judge is yet to finally decide the points urged in the writ petition. Affidavits have been directed to be exchanged.

We are not inclined to interfere at this stage. We are of the view that the learned Single Judge should decide the matter on merits after exchange of affidavits.

Time for the respondents in the writ petition to file affidavit-in-opposition is extended by three weeks from date. Reply thereto, if any, be filed within a week thereafter.

The appellant is very anxious that the alleged unauthorised construction may collapse any day and she may be held responsible for the same. If the appellant can demonstrate such urgency, she may make

a prayer before the learned Single Judge for early hearing of the writ petition to the extent the business of the Court may permit.

Since we have not called for affidavits, the allegations in the connected application are deemed not to be admitted by the respondents.

The appeal and the connected application being IA NO:GA/2/2022 are accordingly dismissed.

We have not gone into the merit of the case.

(ARIJIT BANERJEE, J)

(RAI CHATTOPADHYAY, J.)