

OD – 4

ORDER SHEET
WPO/2010/2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

ABHISHEK MISHRA
VS
KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date : 6TH June, 2022.

Appearance :
Mr. Sujit Banerjee, Adv.
Mr. Nilay Sengupta, Adv.
...For the Petitioner

Mr. Dwijadas Chakraborty, Adv.
...For the K.M.C.

Mr. S. R. Saha, Adv.
...For the Respondent Nos.6a, 6b, 6c.

The Court : The petitioner has alleged illegal and unauthorised construction and usage by the private respondent in respect of two premises under the Kolkata Municipal Corporation. First is the premises No.3, Ram Kumar Rakshit Lane, Chini Patty, Kolkata-700007 and the second property at 44, Shiv Thakur Lane, Kolkata-700007.

At the time of hearing, the petitioner restricts argument in respect of only the premises No.44, Shiv Thakur Lane, Kolkata-700007.

Report has been submitted by the learned Advocate representing Kolkata Municipal Corporation in respect of the Premises No.44, Shibu Thakur Lane, Kolkata-700007, Ward No.23, Borough-

IV. The said report mentions that a departmental inspection was conducted in respect of the said property wherefrom it revealed that the building was previously a four stories old, ruinous building. The Department served notice under Section 411(1) of the Kolkata Municipal Corporation Act, 1980 on 1st February, 2021. The empanelled structural engineer has certified on 4th February, 2021 that the existing old dilapidated four storied building is not repairable and has also stated that 12 nos. of columns (4 nos. for stair & 8 nos. for structure) have to be inserted for strengthening the structural stability of the entire building. Reconstruction plan was sought for and the department issued the reconstruction plan on 4th March, 2021 and the said plan is valid till 3rd March, 2023 permitting construction of roof, ground, first, second, third, etc. approved by the Executive Engineer (Civil) under Rule 3 (2) (e) and Rule 3 (2) (a) of the Kolkata Municipal Corporation building rules 2009 read with Section 410 of the Kolkata Municipal Corporation Act, 1990. The report mentions that the construction work is going on as per the sanctioned plan and under the supervision of the LBS & ESE.

Learned Advocate representing the private respondents submits upon instruction that they are no way connected and/or related with the said premises and they are not responsible either for demolition or construction in the said premises.

The aforesaid submission has been opposed by the learned Advocate for the petitioner. It has been asserted that the private respondents are the persons responsible for making construction in

the said premises in a manner that the ingress and egress to the premises in question has been blocked.

Be that as it may, as it appears from the report of the Kolkata Municipal Corporation that steps have already been taken in respect of the premises in question and the construction therein is going on as per the sanctioned plan and under the supervision of the Licensed Building Surveyor and Empanelled Structural Engineer, accordingly no order is required to be passed in the writ petition. The Kolkata Municipal Corporation shall take necessary steps as and when required strictly in accordance with law.

The writ petition stands disposed of.

The report dated 13th May, 2022 by the Kolkata Municipal Corporation be retained with the records.

Leave granted to the learned Advocate of the petitioner to pursue grievances of the petitioner in respect of the premises No.3, Ram Kumar Rakshit Lane, Chini Patty, Kolkata-700007 in separate proceeding, if so advised.

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

(AMRITA SINHA, J.)