

WPO No.2161 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

BIMAL PRAKASH SARDA
VS
THE STATE OF WEST BENGAL & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 10th June, 2022.

Appearance:
Mr. Raghunath Chakraborty, Adv.
Ms. Tanusree Das, Adv.
...for the Petitioner.

Mr. Ambar Nath Banerjee, Adv.
..for Respondent no.9.

Mr. Alok Kumar Ghosh, Adv.
Mr. Subhrangsu Panda, Adv.
...for KMC.

The Court:- None appears on behalf of the State respondents despite service.

Affidavit of service filed in Court today is taken on record.

The petitioner challenges the notice issued by the Executive Engineer (Civil/Building) Department, Borough-3 of the Kolkata Municipal Corporation dated 29th April, 2022 whereby the petitioner has been intimated that steps will be taken against unauthorised construction in respect of the premises no.84, Canal Circular Road and premises nos. B/76/H/21, B/76/H/22 and B/76/H/23, Dr. S.C. Banerjee Road (Old Beliaghata Main Road).

In respect of premises no. B/76/H/23, Dr. S.C. Banerjee Road (Old Beliaghata Main Road) an order was passed by the Hon'ble Division Bench on 9th March, 2022 in APO no.12 of 2022, IA No. GA 1 of 2022 with WPO No. 2 of

2022 (Bimal Prakash Sarda Vs. Kolkata Municipal Corporation & Ors.) directing the Thika Controller to pass reasoned order on the application made by the petitioner (appellant therein) on January 24, 2022. If the Thika Controller issued no objection certificate as has been asked for, the Corporation should accept the same. If the Thika Controller does not issue the said no objection, Corporation may take steps in accordance with law. Six weeks' time was granted to the Thika Controller for taking a decision in the matter.

As proceeding before the Thika Controller could not be concluded within the time as specified by the Division Bench an application for extension of time was filed by the petitioner before the Hon'ble Division Bench. By an order dated 11th May, 2022 passed in APO no.12 of 2022, IA No. GA 2 of 2022 with WPO No. 2 of 2022, the Hon'ble Division Bench was pleased to extend the time and direct the Thika Controller to take a decision on the representation filed by the petitioner within eight weeks from the receipt of the copy of the order. The Corporation has been restrained from taking any coercive measure against the petitioner within a period of ten weeks from the said date.

As in terms of the order passed by the Hon'ble Division Bench on 9th March, 2022, the petitioner was unable to produce the no objection certification from the Thika Controller, the Executive Engineer issued impugned notice dated 29th April, 2022. It is thereafter that the petitioner approached the Hon'ble Division Bench praying for extension of time for compliance of the order of the Thika Controller.

The prayer of the petitioner for extension of time has been allowed and the Corporation has been restrained for a period of ten weeks from taking any coercive measure against the petitioner.

In view of the order passed by the Hon'ble Division Bench, order passed by the Executive Engineer on 29th April, 2022 which is impugned in the present writ petition becomes redundant.

Accordingly, the instant writ petition is disposed of by directing the Kolkata Municipal Corporation to take steps in accordance with the orders passed by the Hon'ble Division Bench on 9th March, 2022 and 11th May, 2022. No further order is required to be passed in this writ petition.

The writ petition is disposed of.

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

(AMRITA SINHA, J.)