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ORDER SHEET
WPO No.2177 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

ANUP MUKHOPADHYAY
Vs.
THE CALCUTTA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 7th June, 2022.

Appearance:
Mr. Anup Mukhopadhyay, Petitioner in person.

Mr. Dwijadas Chakraborty, Adv.
Sk. Sujauddin, Adv.
...for KMC.

Mr. K. M. Hossain, Adv.
Ms. Keya Sutradhar, Adv.
Ms. Sujata Mukherjee, Adv.
...for Respondent no. 5.

The Court:-The petitioner alleges illegal and unauthorised construction being carried out by the private respondent herein in the premises No.65B, Ram Kanto Bose Street, Ward No.8, Kolkata-700 003.

The petitioner made representation before the respondent Kolkata Municipal Corporation and its officials on 4th August, 2021. The petitioner also made representation before the Officer-in-Charge, Shyampukur Police Station on 9th August, 2021 against such illegal and unauthorised construction.

No steps have been taken by the respondents to consider the representation till date.

Learned advocate representing the private respondent denies the allegations made by the petitioner. It is the specific contention of the private

respondent that there is a common wall in between the petitioner's premises and the private respondent's premises. The building is an old one and in a dilapidated condition. For the purpose of making repairs in the common wall, a mutual agreement was entered into by and between the parties and the private respondent has paid a sum of Rs.25,000/- only by way of a cheque in favour of the petitioner for effecting the repairs. As no steps were taken by the petitioner for repairing in spite of the receipt of the money, the private respondent initiated the repairing work.

The petitioner denies the contention of the private respondent that there is any common wall between the two premises. The payment of money has also been disputed by the petitioner.

It appears from the averments and documents annexed to the writ petition that there is a representation from the petitioner before the Municipal Commissioner, Director General, Building Department and the Executive Engineer, Building Department, Kolkata Municipal Corporation alleging illegal and unauthorised construction in the said premises. The said representation has not been considered till date.

In view of the above, the instant writ petition is disposed of by directing the Executive Engineer Building Department, Kolkata Municipal Corporation, Borough No.1 being the respondent no.4 herein to cause physical enquiry and inspect the premises to ascertain whether there has been any illegal and unauthorised construction as alleged by the petitioner or at all.

In the event there is any unauthorised and illegal construction, steps shall be taken by the aforesaid respondent to deal with the same, strictly in accordance with law within a period of eight weeks.

Inspection shall be made upon giving prior notice to both the parties. The fate of the inspection and the decision of the respondent shall be intimated to both the parties immediately after taking a decision in the matter.

It is made clear that this Court has not entered into the merits of the claim of the parties and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The petitioner is directed to forward a copy of his representation dated 4th August, 2021 to the aforesaid respondent at the time of communicating the order of this Court.

The writ petition stands disposed of.

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

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

(AMRITA SINHA, J.)