

ORDER SHEET

WPO No.2187 of 2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SWASTIK PROJECTS PRIVATE LIMITED AND ANR.
VS
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date: 1st July, 2022.

Appearance:

Mr. Aniruddha Chatterjee, Adv.
Mr. Kushal Chatterjee, Adv.
Mrs. Sayanti Nandy, Adv.
Mr. Nilay Sengupta, Adv.
Mr. Sujit Banerjee, Adv.
..for the Petitioners.

Mr. Tapas Kumar Dey, Adv.
Mr. Partha Sarathi Ghosal, Adv.
Mr. Rakesh Roy, Adv.
..for Respondent No. 5.

Mr. Barin Banerjee, Adv.
Mr. Swapan Kumar Debnath, Adv.
..for KMC.

The Court: -In terms of the order passed by this Court on 16th June, 2022, a report dated 27th June, 2022 has been filed by the Officer on Special Duty and Ex. Officio Chief Valuer & Surveyor, Kolkata Municipal Corporation.

The said report mentions that as per resolution of the Mayor-in-Council's meeting dated 20th January, 1989 and as per notification published in the daily newspaper on 31st March, 1989, Sri Aurobinda Abasan has no right to look after

the iron gate along with the boundaray wall and 10 metre inside road after five years from 20th January, 1989.

The gate and the watchman's room in the premises no.46C, Biplabi Barin Ghosh Sarani were all made public and the respondnent Sri Aurobinda Abasan cannot claim those now as its own property as the public easement is attached since the Kolkata Municipal Corporation took over those in the year 1989 and five years period already expired. None can claim the personal right over the gate, watchman's room and boundary wall.

On inpection, the department observed that the entrance iron gate and single storied corrugated iron shaded watchman's room still exist at site. The Kolkata Municipal Corporation intends to take necessary action to remove the aforesaid structure immediately.

From the aforesaid report which has been filed in Court today, copy whereof has been circulated amongst the parties, it appears that Sri Aurobinda Abasan does not have any right over the gate, watchman's rooms, boundary wall and the lane is a public lane in view of the resolution adopted by the Kolkata Municipal Corporation and as per the notification published in the newspaper way back on 31st March, 1989.

The aforesaid notification was in the public domain as the same was published in the daily newspaper. Members of Sri Aurobinda Abasan did not raise any objection when the same was published in the year 1989.

It further appears from the report that the license for operation of the gate was conferred upon the Honorary Secretary of Sri Aurobinda Abasan for a period of five years only. The terms of five years expired long back and accordingly Sri Aurobinda Abasan cannot claim to hold on to the same, today.

In view of the above, the Kolkata Municipal Corporation is directed to take prompt necessary steps in accordance with law in terms of the report that has been filed in Court today.

No further order is required to be passed in the instant writ petition.

The writ petition stands disposed of.

Report dated 27th June, 2022 filed by the Officer on Special Duty and Ex. Officio Chief Valuer & Surveyor, Kolkata Municipal Corporation in Court today be retained with the records.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(AMRITA SINHA, J.)