

OD-2

ORDER SHEET

WPO/1244/2021

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

ASHOKE KUMAR DE
VERSUS
THE KOLKATA MUNICIPAL CORPORATION AND ORS

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date : 15th March, 2022.

[Via Video Conference]

Appearance:

Mr. Shantanu Mishra, Adv.

Mr. N. C. Maity, Adv.

Md. Sayeed Khan, Adv.

Ms. R. Roy, Adv.

...for the petitioner

Ms. Tapati Saha, Adv.

...for the State

Mr. Ranajit Chatterjee, Adv.

Ms. Tanushree Dasgupta, Adv.

...for KMC

Mr. Biswajib Ghosh, Adv.

Mr. Avirup Chatterjee, Adv.

...for the respondent no.8

The Court:- Pursuant to the leave granted by this Court, an exception to the report has been filed by the respondent no.8. In the exception, the allegation of unauthorized construction on premises No.8/3 Chintamani Das Lane in Ward No.40, Borough-V of the Kolkata Municipal Corporation has been denied. It has been stated that apart

from a GI shed structure over the damaged roof, no other construction has been made. It is further submitted that such construction is not in permanent nature and can be regularized by the Corporation. Learned advocate for the petitioner, however, submits that the construction made by the respondent no.8 has encroached into the mandatory open spaces required to be maintained by the rules and as such the Corporation must act and proceed in accordance with law. The Corporation has issued a stop work notice. It is submitted by the respondent no.8 that such GI shed structure was constructed in 2014 and no construction has been made thereafter.

As the Corporation has already decided to proceed in accordance with the provisions of law, the Corporation is directed to dispose of the complaint of the petitioner, on the basis of the claims and counter-claims of the parties. Any application that may be filed by the respondent no. 8 shall also be taken into consideration with respect to the said GI shed structure, if the same is permitted under the law.

While disposing of the entire issue, the Corporation shall proceed in the following manner:

- a) The Corporation shall cause an inspection of the premises in question upon notice to the petitioner as also the respondent No. 8.
- b) Upon holding the inspection, the Corporation authorities shall prepare an inspection report with the sketch map

indicating the nature and extent of the unauthorized construction. Copies of the inspection report and sketch map shall be handed over to the parties.

- c) Parties will be entitled to file their written objection/written version to the said report and also adduce oral and documentary evidence in support of their contentions.
- d) A reasoned order shall be passed and communicated to the parties upon giving an opportunity of hearing.
- e) Upon conclusion of the proceeding, the corporation shall take steps in accordance with law and reach the matter to its logical conclusion.

Under such circumstances, nothing further remains to be decided in the writ petition. This court has not entered into the merits of the claims and counter claims of the parties. Title dispute or boundary dispute shall not be decided by the Corporation.

Accordingly, WPO/1244/2021 is disposed of.

[SHAMPA SARKAR, J.]