

WPO No.643 of 2019
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

RADHESHYAM KESHRI

VS

KOLKATA MUNICIPAL CORPORATON & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date: 4th July, 2022.

Appearance:

Mr. Niloy Sengupta, Adv.

Mr. Sujit Banerjee, Adv.

..for Petitioner.

Mr. Gurudas Mitra, Adv.

Ms. Suvasree Ghosh, Adv.

..KMC.

Mrs. Sipra Majumder, Adv.

Mrs. Debarati Sen (Bose), Adv.

..for State.

Mr. Rahul Karmakar, Adv.

Ms. Gargi Goswami, Adv.

..for Respondent No.6.

The Court:-Executive Engineer (Civil), Building Department, Borough-I, Kolkata Municipal Corporation has filed a report dated 2nd July, 2022 before this Court.

It appears therefrom that a plan was sanctioned for construction of G+IV storied residential building at the premises no. 22/1, Bagbazar Street, Ward No.7, Borough-I, Kolkata-700 003 after demolishing the existing partly II storied and partly III storied old dilapidated building.

At the time of site inspection by the department it has been found that the construction work of the new building on vacant

portion after demolition of the existing structure has already commenced except the portion in the North-East corner i.e. shop and a portion in the Southern side of the premises.

The report further mentions that one shop space has been earmarked in the sanctioned plan in the North-East corner of the proposed building (ground floor) in favour of Ganesh Shaw & Radheshyam Keshari. There is a registered declaration from the owners of the premises with regard to non-eviction of the tenant and the same has been filed prior to sanction of the building plan.

Learned Advocate appearing for the petitioner submits that the area that has been earmarked for the petitioner is far less than the petitioner is presently occupied. Prayer has also been made for providing a space in the front side of the premises.

Learned Advocate appearing for the respondent no.6 disputes the status of the petitioner as tenant in the said premises. It has been submitted that a Title Suit being No.1243 of 2019 is pending consideration before the learned City Civil Court at Calcutta.

The Suit was filed by the petitioner praying for declaration of his tenancy right. A counter claim has been filed in the said Suit praying for eviction of the plaintiff i.e. the petitioner herein from the said premises.

Admittedly, the Corporation is not the appropriate authority to declare the status of an occupier of the premises. The Suit for

declaration and the counter claim is pending consideration before the appropriate forum.

Undertaking that has been given by the respondent no.6 before the Kolkata Municipal Corporation shall be subject to any order that is being passed in the pending Title Suit.

The writ petition stands disposed of.

Report dated 2nd July, 2022 filed by the Executive Engineer (Civil), Building Department, Borough-I, Kolkata Municipal Corporation and the affidavit of undertaking filed by the respondent no.6 are taken on record.

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

(AMRITA SINHA, J.)