

OD-3

**RVWO/19/2021
WITH
APOT/125/2021
WPO/153/2021
IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE**

D AND I TAXCON SERVICES PVT.LTD.
VS
KOLKATA MUNICIPAL CORPORATION & ORS

BEFORE:

The Hon'ble JUSTICE ARIJIT BANERJEE
The Hon'ble JUSTICE KAUSIK CHANDA
Date : 18TH JANUARY, 2022.

Appearance:

Mr. Tapas Dutta, Advocate
Mr.M.Halder, Advocate
...for petitioner.
Mr.Suddhasatva Banerjee, Adv.
Ms.Sanjukta Ray, Adv.
....for respondent No.6.
Mr. Ranajit Chatterjee, Advocate
Mr.Mihir Kundu, Advocate
...for KMC.
Mr.Debjit Mukherjee, Advocate
Ms.Susmita Chatterjee, Advocate
....for state.

THE COURT:- This application described as a 'review application' has been filed purportedly under Order XLVII Rule 1 of the Code of Civil Procedure, 1908 for review of an order dated November 22,

2021 whereby APOT 125 of 2021 was dismissed. The appellant has filed the present application.

Certain allegedly unauthorized constructions gave rise to a proceeding before the Kolkata Municipal Corporation. The KMC issued a notice to one Narnolia Financial Advisor Limited by mentioning that the said company was the 'person responsible' for making the unauthorized construction.

This notice was challenged by the present petitioner before the learned single Judge by way of WPO 153 of 2021. Before the Writ Court this petitioner contended that Narnolia Financial Advisor Limited was not a 'person responsible' within the meaning of Section-400 of the Kolkata Municipal Corporation Act and hence, could not be called for hearing by the Corporation.

Learned single Judge declined to interfere and dismissed the writ petition.

While disposing of the appeal, we held that the appellant (present petitioner) could not have possibly suffered any prejudice if the Corporation deems it fit and proper to hear a party which, according to the corporation, is the 'person responsible' for the unauthorized construction in question. We also recorded that it appears that the writ petitioner has some oblique motive in somehow stopping Narnolia Financial Advisor Limited from participating in the proceedings before the corporation authorities.

We found the appeal to be frivolous and dismissed the same with costs assessed at Rs.10,000/-.

We find the present review petition even more frivolous and devoid of any merits whatsoever. We have seen the grounds in the Memorandum of Review. None of them come within the scope or purview of Order XLVII Rule 1 of the Code of Civil Procedure. This review petition is an appeal in disguise.

We see no reason to change our order dated November 22, 2021. We do not see how the petitioner will suffer any prejudice if the Corporation hears Narnolia Financial Advisor Limited. It has also been stated by the learned advocate for the petitioner that the petitioner has also been heard by the Corporation; it is not that the Corporation has denied a hearing to the petitioner.

There is no error apparent on the face of the order dated November 22, 2021 nor any illegality which needs to be corrected.

This review petition is an abuse of the process of Court. It deserves to be and is dismissed with costs assessed at Rs.30,000/-(Thirty Thousand).

(ARIJIT BANERJEE, J)

(KAUSIK CHANDA, J.)