

OD-3

ORDER SHEET

WPO No. 643 of 2018

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SMT. SWAPNA CHAKRABORTY & ORS.
Versus
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE SAUGATA BHATTACHARYYA

Date : 3rd August, 2022.

Appearance :

Mr. Kallol Guha Thakurata, Adv.

Mr. Rajesh Nath Goswami, Adv.

For the petitioners.

Mr. Raghunath Chakraborty, Adv.

Mr. M. Ahmed, Adv.

For the respondent no.8.

Mr. Achintya Kumar Banerjee, Adv.

Mr. Debangshu Mondal, Adv.

For the K.M.C.

The Court:- Affidavit of service filed in Court by the petitioners
is taken on record.

In the present writ petition, the petitioners have thrown a
challenge to the order of the Municipal Commissioner, Kolkata Municipal
Corporation being the respondent no.2 dated 10th January, 2018
whereby the said respondent no.2 cancelled the sanction plan accorded
in favour of the petitioners dated 10th September, 2013 in respect of

premises No. 138 Bandipur Road, under Ward No. 113 of the Kolkata Municipal Corporation.

Mr. Kallol Guha Thakurata, learned advocate appears on behalf of the petitioners and has relied upon a report of Block Land & Land Reforms Officer, Kasba, South 24 parganas which was furnished before the Hon'ble Division Bench pursuant to the order dated 6th September, 2017.

Based on such report, it has been contended that the plot in question has already been converted into "Bastu" and constructions have already been made over the said piece of land on conversion. In addition thereto, it has also been submitted that the applications have been preferred by the petitioners in the year 2015 addressed to the concerned authority of the State respondents for conversion of the "Water Body" into "Danga" if the same has not been done in the meantime in order to save the sanction plan which has been accorded in favour of the petitioners on 10th September, 2013. It is also the submission on behalf of the writ petitioners that without considering the fact of making application for conversion in the year 2015 by the petitioners and without appreciating the contents of the report of the concerned BL&LRO dated 15th September, 2017, the respondent no.2 has decided to cancel the sanctioned plan dated 10th September, 2013 and, accordingly, this Court is approached to interfere with the decision taken by the said respondent no.2.

The private respondent is represented by Mr. Raghunath Chakraborty, learned advocate and the Kolkata Municipal Corporation is represented by Mr. Achintya Kumar Banerjee, learned advocate.

It has been submitted jointly on behalf of the respondents that a sanction plan was accorded on 10th September, 2013 permitting the petitioners to erect G+3 storied residential building, but subsequently the writ petition was preferred by the private respondent being WPA No. 24444 (W) of 2014 (Tukai Chakraborty @ Ashis Chakraborty-Versus-The Kolkata Municipal Corporation & Ors.) and the same was disposed of vide order dated 13th April, 2017 by a co-ordinate Bench directing the respondent no.2 to take a decision on the complaint lodged by the private respondent in terms of Section 397 of the Kolkata Municipal Corporation Act, 1980 (hereinafter referred to as the “said Act of 1980”). The order passed by the co-ordinate Bench on 13th April, 2017 was assailed by the Kolkata Municipal Corporation before the Hon’ble Division Bench by preferring intra court appeal being MAT No. 979 of 2017. On 6th September, 2017 the Hon’ble Division Bench directed the concerned Block Land & Land Reforms Officer to file a report in the form of an affidavit, and, accordingly, a report dated 15th September, 2017 was placed before the Hon’ble Division Bench and the same was considered and final order was passed on 27th November, 2017 dismissing the said intra court appeal preferred by the Kolkata Municipal Corporation. Subsequently on confirmation of the order passed by the co-ordinate

Bench by the Hon'ble Division Bench the respondent no.2 took up the issue and after granting an opportunity of hearing to the petitioners and other interested parties came to conclusion that there was misrepresentation of fact to the extent that the piece of land in question was classified as water body in the records maintained by the office of the concerned Block Land & Land Reforms Officer therefore decided to cancel the said sanctioned plan dated 10th September, 2013 which was accorded in favour of the petitioners.

Apart from the fact that the land in question has already been physically converted into 'Bastu' and constructions have been made over the said plot of land as it emanates from the report dated 15th September, 2017 of the concerned BL&LRO nothing has been found by this Court which justifies such conversion while keeping the concerned State respondent including the office of the concerned BL&LRO in the dark.

It has been specifically reported by the concerned BL&LRO that the total area of the plot in question is 24 decimals which is classified as "Pukur" i.e. "Pond". Such finding of the BL&LRO was fortified by the steps taken by the petitioners in 2015 by making application to the concerned authority for conversion of the said plot from "Pukur" to "Bastu". The application of the petitioners for such conversion also corroborates the findings of the respondent no.2 to the extent that on

mis-representation sanction plan was obtained from the concerned authority of the Kolkata Municipal Corporation on 10th September, 2013.

In view of the aforesaid discussion, this Court does not find any infirmity in the order passed by the respondent no.2 and the same stands confirmed resultantly the writ petition stands dismissed.

There shall be no order as to costs.

(SAUGATA BHATTACHARYYA, J.)

snn.