

OD-2

ORDER SHEET
WPO/2414/2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

DILIP KUMAR MANSUKHLAL AND ANR
VS
THE MUNICIPAL COMMISSIONER, KOLKATA
MUNICIPAL CORPORATION AND ORS

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date : 26th August, 2022

Appearance:

Mr. Jaharlal Ray, Adv.
Mr. Saptarshi Kr. Kundu, Adv.
Ms. Kavita Rani, Adv.
. . .for the petitioners.

Mrs. Sima Chakraborty, Adv.
Mr. Fazlul Haque, Adv.
. . .for the KMC.

Mr. Saptangshu Basu, Sr. Adv.
Mr. Soumo Choudhury, Adv.
Mr. S. Roy, Adv.
. . .for the Respondent nos.6 & 7.

The Court: The petitioners are aggrieved by the alleged action on the part of the Kolkata Municipal Corporation in revalidating the plan which was sanctioned in the year 2009.

It appears from the submissions made on behalf of the parties that an earlier writ petition was filed by the petitioner no.2 in the year 2010 being WPO

No. 809 of 2010 (Kirit Kumar Shah & Ors. Vs. The Municipal Commissioner, Kolkata Municipal Commissioner & Ors.).

The said writ petition stood dismissed as 'not pressed' by order dated 14th September, 2010.

The present writ petition has been filed on the self same cause of action. No leave was obtained from the Court for filing fresh proceeding on the same cause of action, at the time of dismissal of the earlier writ petition.

Learned advocate representing the Kolkata Municipal Corporation has produced a report before this Court signed by the Sub Assistant Engineer (Civil), Assistant Engineer (Civil) and the Executive Engineer (Civil)/ Borough No.-VIII, Ward No. 70, Building Department, Kolkata Municipal Corporation which reveals that the premises in question was inspected by the department and it was found that the existing five storied building is standing thereon. The fourth floor (top floor) of the building is lying vacant. There is a sanctioned plan being no.9 dated 8th April, 1961 with regard to addition & alteration plan of the fourth floor which was revalidated in the year 2009. There is no construction going on at the present.

It appears that the cause of action, if any, arose in the year 2009. A writ petition on the self same cause of action was filed in the year 2010 and the writ petition stood dismissed on 14th September, 2010 without obtaining any leave to file fresh writ petition on the self same cause of action.

The present writ petition is accordingly not maintainable in law.

In view of the above, no relief can be granted to the petitioners in the present writ petition.

The writ petition stands dismissed.

Instruction dated 24th August, 2022 given by the Kolkata Municipal Corporation in Court today is taken on record.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)

NM.