

OD-7

ORDER SHEET

WPO No. 2423 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

KANINA CHATTERJEE
VS.
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date: 23rd August, 2022

Mr. Debabrata Saha Roy, Mr. Indranath Mitra, Mr. Subhankar Das, Mr.
Neil Basu, Advocates for the petitioner.

Mr. Gopal Chandra Das, Mr. Debangshu Mondal, Advocates for K.M.C.

Mr. Saptangshu Basu, Sr. Adv., Mr. Rajdeep Bhattacharya, Adv.
for respondent nos.5 & 6.

Mr. Anujit Mookherji, Adv. for respondent no.7.

The Court:-The petitioner alleges that the complaint filed by the petitioner against Biswarup Housing Society regarding conversion/reconstruction/modification of the common area in violation of the sanctioned plan and in violation of the Kolkata Municipal Corporation Rules and laws has not been considered by the respondent authority. Representation was filed by the petitioner on 2nd August, 2022.

Learned advocate representing the respondent no.7 submits that there is already a decree in his favour passed by the learned Court below.

Learned senior advocate representing the respondent nos. 5 & 6 submits that an appeal has been preferred against the decree and the same is pending consideration before this Court.

As the issue in the present writ petition relates to conversion/reconstruction/modification of the common area contrary to the Kolkata Municipal Corporation Rules as well as sanction plan, accordingly, the instant writ petition is disposed of by directing the respondent no.4 being the Executive Engineer, Building Department, Borough-IX, Kolkata Municipal Corporation to consider the representation filed on behalf of the petitioner strictly in accordance with law, at the earliest, but positively within a period of twelve weeks from the date of communication of this order.

The aforesaid respondent shall afford reasonable opportunity of hearing to all the necessary parties including the respondent nos.5, 6 & 7 prior to taking a decision in the matter. A reasoned order shall be passed by the aforesaid respondent and communicated to the parties immediately thereafter.

It is made clear that this Court has not entered into the merits of the claim of the petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation filed on behalf of the petitioner.

The petitioner is directed to forward a copy of the representation dated 1st August, 2022 submitted before the respondent Corporation on 2nd August, 2022

along with all supporting documents to the aforesaid respondent at the time of communicating the order of the Court.

Till a decision is taken by the aforesaid respondent, Biswarup Housing Society is restrained from making any construction beyond the sanctioned plan.

The writ petition stands disposed of.

Affidavit of service filed 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.)